

FOR STORMS

ಬೆಂಗಳೂರು, **ಸೋಮವಾರ, ೨೧, ಆಗಸ್ಟ್, ೨೦೨೩ (ಶ್ರವಣ, ೩೦**, ಶಕವರ್ಷ, **೧೯೪೫**)

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ಸಂಚಿಕೆ ೧೬೧ Issue 161

ಭಾಗ ೪

ಕೇಂದ್ರದ ವಿಧೇಯಕಗಳು ಮತ್ತು ಅವುಗಳ ಮೇಲೆ ಪರಿಶೀಲನಾ ಸಮಿತಿಯ ವರದಿಗಳು, ಕೇಂದ್ರದ ಅಧಿನಿಯಮಗಳು ಮತ್ತು ಅಧ್ಯಾದೇಶಗಳು, ಕೇಂದ್ರ ಸರ್ಕಾರದವರು ಹೊರಡಿಸಿದ ಸಾಮಾನ್ಯ ಶಾಸನಬದ್ಧ ನಿಯಮಗಳು ಮತ್ತು ಶಾಸನಬದ್ಧ ಆದೇಶಗಳು ಮತ್ತು ರಾಷ್ಟ್ರಪತಿಯವರಿಂದ ರಚಿತವಾಗಿ ರಾಜ್ಯ ಸರ್ಕಾರದವರಿಂದ ಪುನಃ ಪ್ರಕಟವಾದ ಆದೇಶಗಳು

ಸಂಸದೀಯ ವ್ಯವಹಾರಗಳು ಮತ್ತು ಶಾಸನ ರಚನೆ ಇಲಾಖೆ ಅಧಿಸೂಚನೆ

ಸಂಖ್ಯೆ: ಸಂವ್ಯಶಾಇ 20 ಕೇಶಾಪ್ರ 2023

ಬೆಂಗಳೂರು, ದಿನಾಂಕ: 19.08.2023.

ದಿನಾಂಕ: 03.08.2023 ರಂದು ಭಾರತ ಸರ್ಕಾರದ ಗೆಜೆಟ್ನ ವಿಶೇಷ ಸಂಚಿಕೆಯ Part-II-Section-1 ರಲ್ಲಿ ಪ್ರಕಟವಾದ THE MULTI-STATE CO-OPERATIVE SOCIETIES (AMENDMENT) ACT, 2023 (NO. 11 OF 2023) ಅನ್ನು ಸಾರ್ವಜನಿಕರ ಮಾಹಿತಿಗಾಗಿ ಕರ್ನಾಟಕ ರಾಜ್ಯಪತ್ರದಲ್ಲಿ ಮರು ಪ್ರಕಟಿಸಲಾಗಿದೆ,-



सी.जी.-डी.एल.-अ.-O3082023-247816 CG-DL-E-03082023-247816

असाधारण

EXTRAORDINARY

भाग II — खण्ड 1

PART II — Section 1

प्राधिकार से प्रकाशित

PUBLISHED BY AUTHORITY

नई दिल्ली, बृहस्पतिवार, अगस्त 3, 2023/ श्रावण 12, 1945 (शक) सं॰ 14]

NEW DELHI, THURSDAY, AUGUST 3, 2023/SRAVANA 12, 1945 (SAKA) No. 14]

इस भाग में भिन्न पृष्ठ संख्या दी जाती है जिससे कि यह अलग संकलन के रूप में रखा जा सके। Separate paging is given to this Part in order that it may be filed as a separate compilation.

MINISTRY OF LAW AND JUSTICE (Legislative Department)

New Delhi, the 3rd August, 2023/Sravana 12, 1945 (Saka)

The following Act of Parliament received the assent of the President on the 3rd August, 2023 and is hereby published for general information:—

THE MULTI-STATE CO-OPERATIVE SOCIETIES (AMENDMENT) ACT, 2023

No. 11 of 2023

[3rd August, 2023.]

An Act further to amend the Multi-State Co-operative Societies Act, 2002.

BE it enacted by Parliament in the Seventy-fourth Year of the Republic of India as follows:-

1. (1) This Act may be called the Multi-State Co-operative Societies (Amendment) Short title and Act, 2023.

commencement.

section 3.

- (2) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint; and different dates may be appointed for different provisions of this Act and any reference in any such provision to the commencement of this Act shall be construed as a reference to the coming into force of that provision.
- 2. In section 3 of the Multi-State Co-operative Societies Act, 2002 (hereinafter referred Amendment of to as the principal Act),—

(i) after clause (a), the following clause shall be inserted, namely:—

'(aa) "Authority" means the Co-operative Election Authority established under sub-section (1) of section 45;';

39 of 2002.

- (*ii*) in clause (*d*), for the words, brackets and figures "under sub-section (*I*) of section 4", the words, brackets, letters and figures "as per clause (*f*) of article 243ZH of the Constitution read with sub-section (*I*) of section 4" shall be substituted;
 - (iii) after clause (f), the following clause shall be inserted, namely:—
 - '(fa) "Co-operative Ombudsman" means the Ombudsman appointed by the Central Government under section 85A;';
 - (iv) clause (i), shall be omitted;
 - (v) after clause (k), the following clause shall be inserted, namely:—
 - '(ka) "financial year", in relation to any multi-State co-operative society or class of such societies, means the year ending on the 31st day of March of the year and where the accounts of such society or class of such societies are, with the previous sanction of the Central Registrar, balanced on any other day, the year ending on such day;';
- (vi) in clause (s), after the words "Official Gazette", the words "and the expression 'notified' with its cognate meanings and grammatical variations shall be construed accordingly" shall be inserted.

Amendment of section 7.

- **3.** In section 7 of the principal Act, for sub-sections (2) and (3), the following sub-sections shall be substituted, namely:—
 - "(2) Without prejudice to the provisions of sub-section (1), the Central Registrar may register a multi-State co-operative society if the aggregate value of the paid-up capital and provision of reserves along with liquidity, exposure and other prudential norms specified in bye-laws of the proposed multi-State co-operative society in the business of thrift and credit are in accordance with such guidelines as may be prescribed:

Provided that the multi-State co-operative societies registered before the commencement of the Multi-State Co-operative Societies (Amendment) Act, 2023 shall meet such norms within a period of five years from the date of commencement of the said Act:

Provided further that if the liquidity, exposure, prudential and other parameters of the multi-State credit society do not meet such norms within the period mentioned above, the Central Registrar shall have powers to issue such directions as it deems appropriate to such society to take relevant action:

Provided also that in the case of multi-State co-operative bank, the aggregate value of the paid-up capital and provision of reserves along with liquidity norms provided in the bye-laws shall be such as may be laid down by the Reserve Bank from time to time.

(3) The application for registration shall be disposed of by the Central Registrar within a period of three months from the date of receipt of such application by him:

Provided that the Central Registrar may, for rectification of mistakes, if any, in the application, extend the period of three months with such further period, for reasons to be recorded in writing, not exceeding two months on the request of the applicant.

(4) Where the Central Registrar refuses to register a multi-State co-operative society, he shall communicate the order of such refusal stating therein the reasons for such refusal, to the applicant within the period specified in sub-section (3):

Provided that no order of refusal shall be made, unless the applicant has been given an opportunity of being heard:

Provided further that if the application for registration is not disposed of within the period specified in sub-section (3) or the Central Registrar fails to communicate the order of refusal within the said period, the application shall be deemed to have been accepted for registration and the Central Registrar shall issue the registration certificate in accordance with the provisions of this Act and the rules made thereunder.".

4. In section 10 of the principal Act, in sub-section (2), in clause (a), for the word Amendment "address", the words and brackets "address, including e-mail address" shall be substituted.

of section 10.

5. In section 14 of the principal Act,—

Amendment of section 14.

- (i) for the marginal heading "Change of address", the marginal heading "Address" shall be substituted;
- (ii) for the word "address", the words "address, including e-mail address," shall be substituted.
- **6.** In section 17 of the principal Act, after sub-section (9), the following sub-section Amendment of shall be inserted, namely:—

section 17.

"(10) Any co-operative society may, by a resolution passed by majority of not less than two-thirds of the members present and voting at a general meeting of such society, decide to merge into an existing multi-State co-operative society:

Provided that such resolution shall be subject to the provisions of the respective State Co-operative Societies Act for the time being in force under which such co-operative society is registered.".

7. In section 19 of the principal Act, in the Explanation, in clause (a),—

Amendment of section 19

- (i) in sub-clause (ii), the word "or" occurring at the end shall be omitted;
- (ii) sub-clause (iii) shall be omitted.
- **8.** In section 22 of the principal Act, in sub-section (5), for clause (c), the following clause shall be substituted, namely:-

Amendment of section 22.

- "(c) the co-operative society shall be deemed to have been de-registered under the law relating to such co-operative society for the time being in force in that State, from the date of the certificate as issued by the Central Registrar and forwarded to such co-operative society, along with a copy of the registered amendment under sub-section (3).".
- 9. In section 26 of the principal Act,—

Amendment of section 26.

- (i) in the proviso, the words "be entitled to subscribe the shares of such society or" shall be omitted;
 - (ii) after the proviso, the following provisos shall be inserted, namely:—

"Provided further that nominal or associate member can be issued non-voting shares which may not confer any interest in the management of the multi-State co-operative society including right to vote, to be elected as a director of the board or participate in the general body meetings:

Provided also that in case of multi-State co-operative bank, such shares shall be issued in accordance with the instructions issued by the Reserve Bank from time to time.".

10. In section 28 of the principal Act, for the words "to the society in respect of Amendment of membership,", the words "of all dues to the multi-State co-operative society including the payment in respect of membership or has availed such minimum level of product or services as specified in the bye-laws," shall be substituted.

11. In section 29 of the principal Act, for clause (b), the following clause shall be Amendment of substituted, namely:-

section 29.

- "(b) he fails to use the minimum level of the products or services as specified in the bye-laws for two consecutive years; or".
- 12. In section 30 of the principal Act, in sub-section (2), for the words "one year", the Amendment of words "three years" shall be substituted.

section 30.

Substitution of new section for section 35.

13. For section 35 of the principal Act, the following section shall be substituted, namely:—

Redemption of shares.

- "35. (1) The shares of the authorities referred to in clauses (c) and (d) of sub-section (1) of section 25, held in multi-State co-operative societies,—
 - (a) shall not be redeemed without the prior approval of such authorities; and
 - (b) may be redeemed in such manner as may be agreed upon between the multi-State co-operative society and such authorities.
- (2) The shares held in a multi-State co-operative society by any of the authorities referred to in clauses (e) to (g) of sub-section (I) of section 25, shall be redeemed in accordance with the bye-laws of such multi-State co-operative society and in case, where the bye-laws do not contain any provision, in such manner as may be agreed upon between the multi-State co-operative society and such authorities.
- (3) The redemption of shares referred to in sub-sections (1) and (2), shall be on the face value of shares.".

Amendment of section 39.

- **14.** In section 39 of the principal Act, in sub-section (1), after clause (0), the following clause shall be inserted, namely:—
 - "(p) appointment of auditor.".

Amendment of section 41.

- **15.** In section 41 of the principal Act, for sub-section (*3*), the following sub-sections shall be substituted, namely:—
 - '(3) The board shall consist of such number of directors not exceeding twenty-one, as may be specified by the bye-laws, out of which one member shall be Scheduled Caste or Scheduled Tribe and two shall be women in the board of multi-State co-operative society consisting of individuals and having members from such class or category of persons:

Provided that the board may co-opt as members of the board having experience in the field of banking, management, co-operative management and finance or specialisation in any other field relating to the objects and activities undertaken by such multi-State co-operative society:

Provided further that the number of such co-opted members shall not exceed two in addition to twenty-one directors specified in this sub-section.

- (4) The co-opted directors referred to in sub-section (3) shall not have the right to vote in any election of the office bearers or be eligible to be elected as office bearers of the board.
- (5) The functional directors in a multi-State co-operative society shall also be the members of the board and such directors shall be excluded for the purpose of counting the total number of directors specified in sub-section (3).
- (6) No director of a multi-State co-operative society shall, as a director, be present in the discussion of, or vote on, any contract or arrangement entered into, or to be entered into, by or on behalf of such society, if he or his relative is directly or indirectly concerned or interested in such contract or arrangement and no relative of any of the sitting directors of the multi-State co-operative society shall be recruited as employee including the Chief Executive of that society.

Explanation.—For the purposes of this sub-section, the term, "relative" with reference to an individual, includes—

- (a) spouse;
- (b) father (including step father);

- (c) mother (including step mother);
- (d) son (including step son);
- (e) son's wife;
- (f) daughter (including step daughter);
- (g) daughter's husband;
- (h) father's father;
- (i) father's mother;
- (j) mother's father;
- (k) mother's mother;
- (l) son's son;
- (m) son's son's wife;
- (n) son's daughter;
- (o) son's daughter's husband;
- (p) daughter's son;
- (q) daughter's son's wife;
- (r) daughter's daughter;
- (s) daughter's daughter's husband;
- (t) brother (including step brother);
- (*u*) brother's wife;
- (v) sister (including step sister);
- (w) sister's husband; and
- (x) Hindu undivided family.
- (7) Any director of the board who violates the provision of sub-section (6), shall be disqualified for being a member of the board and deemed to have vacated his office from the date of such meeting of the board as is referred to in the said sub-section and such proceedings shall be deemed to be void.'.
- **16.** In section 43 of the principal Act,—

Amendment of section 43.

- (i) in sub-section (1),—
- (a) in clause (a), after the words "to be insolvent", the words "or has been a director of an insolvent company" shall be inserted;
- (b) in clause (h), after the words "under this Act", the words "or under any other Act specified in the Third Schedule" shall be inserted;
 - (c) after clause (n), the following clause shall be inserted, namely:—
 - "(o) has been disqualified under sub-section (7) of section 41.";
- (ii) after sub-section (1), the following sub-section shall be inserted, namely:—
- "(*IA*) A member who has been a director of the board of any multi-State co-operative society or co-operative bank, where such board has been superseded, shall not be eligible to be elected as director of the board of another multi-State co-operative society or co-operative bank for a period of five years, from the date of such supersession:

Provided that no member shall be declared ineligible under this sub-section unless an opportunity of being heard has been given to such member by the Central Registrar and declaration for ineligibility shall be made only after ascertaining that the member concerned has been responsible by acts of omission or commission leading to such supersession.";

- (iii) in sub-section (2),—
 - (a) for clause (a), the following clause shall be substituted, namely:—
 - "(a) to provide information, documents, personnel, funds or expenses or any other assistance as required by the Co-operative Election Authority for conducting elections under this Act in such manner as may be prescribed; or";
- (b) in clause (c), for the words "general meeting" occurring at the end, the words "general meeting; or" shall be substituted;
 - (c) after clause (c), the following clauses shall be inserted, namely:—
 - "(*d*) to make contribution to the co-operative education fund referred to in clause (*b*) of sub-section (*1*) of section 63 or the Co-operative Rehabilitation, Reconstruction and Development Fund established under section 63A; or
 - (e) to file annual return specified in section 120 within the time specified therein; or
 - (f) to get the audit of the society conducted within six months of the close of the financial year to which such account relate:

Provided that before taking any action under this sub-section, he shall be given an opportunity of being heard by the Central Registrar.".

17. For section 45 of the principal Act, the following sections shall be substituted,

Substitution of new section for section 45.

namely:-

Establishment of Cooperative Election Authority.

- '45. (1) The Central Government shall, by notification, establish an Authority to be known as the Co-operative Election Authority which shall consist of a Chairperson, a Vice-Chairperson and Members not exceeding three to be appointed by the Central Government on the recommendation of the Selection Committee consisting of such persons as may be prescribed.
- (2) The head office of the Authority shall be at such place as may be notified by the Central Government.
 - (3) A person shall not be qualified for appointment as a,—
 - (i) Chairperson of the Authority unless he held the post of Additional Secretary to the Government of India or equivalent rank;
 - (ii) Vice-Chairperson of the Authority unless he held the post of Joint Secretary to the Government of India or equivalent rank; and
 - (iii) Member unless he fulfils such qualification and experience as may be prescribed.
- (4) The Chairperson, Vice-Chairperson or Member of the Authority shall hold office for a period of three years from the date on which they enter upon their office or until they attain the age of sixty-five years, whichever is earlier and they shall be eligible for re-appointment:

Provided that in case of appointment of a Government servant as a Chairperson, Vice-Chairperson or a Member, he shall be treated as an *ex officio* Member and he shall continue so long as he holds the office by virtue of which he is a Chairperson, Vice-Chairperson or Member.

(5) The salaries and allowances payable to, and the other terms and conditions of service of the Chairperson, Vice-Chairperson and Members of the Authority, other than the *ex officio* Member, shall be such as may be prescribed.

45A. The Chairperson of the Authority shall have powers of general superintendence and directions in the conduct of the affairs of the Authority and he shall, in addition to presiding over the meetings of the Authority, exercise and discharge such other powers and functions as may be prescribed.

Power of Chairperson.

45B. (1) The Central Government may, by order, remove from office the Chairperson, Vice-Chairperson or Member of the Authority, other than *ex officio* Member, if the Chairperson, Vice-Chairperson or Member of the Authority, as the case may be,—

Removal and suspension of Chairperson, Vice-Chairperson and Members.

- (a) has been adjudged as an insolvent;
- (b) has been convicted of an offence which, in the opinion of the Central Government involves moral turpitude;
- (c) has been physically or mentally incapable of acting as a Chairperson, Vice-Chairperson or Member of the Authority;
- (d) has acquired such financial or other interests, as is likely to affect prejudicially his function as a Chairperson, Vice-Chairperson or Member of the Authority;
- (e) has so abused his position, as to render his continuance in office prejudicial to the public interest; or
- (f) has engaged at any time during his term of office in any other employment.
- (2) The Chairperson, Vice-Chairperson or Member of the Authority shall not be removed from his office except by an order of the Central Government on the ground of his proved misbehaviour or incapacity after the Central Government has, on an inquiry, held in accordance with the procedure prescribed in this behalf by it, come to the conclusion that the Chairperson, Vice-Chairperson or Member of the Authority ought on any such ground to be removed.
- (3) The Central Government may suspend the Chairperson, Vice-Chairperson or Member of the Authority in respect of whom an inquiry under sub-section (2) is being initiated or pending until the Central Government has passed an order on receipt of the report of the inquiry.
- 45C. (1) Before appointing any person as Chairperson, Vice-Chairperson or Member, the Central Government shall satisfy itself that the person does not have any such financial or other interest as is likely to affect prejudicially his functions as such Chairperson, Vice-Chairperson or Member.

Disclosure and declaration of interest.

- (2) The Chairperson, Vice-Chairperson or Members shall immediately after entering office and every year thereafter, make a declaration as to the extent of their interest, whether direct or indirect and whether financial or otherwise, in any co-operative society.
- (3) The declaration so made under sub-section (2) shall be placed in the public domain by the Authority.
- 45D. The Chairperson, Vice-Chairperson or Members, other than *ex officio* Members, may, by notice in writing of not less than thirty days under their hand addressed to the Central Government, resign their office and on such resignation being accepted by that Government, shall be deemed to have vacated their office:

Resignation of Members.

Provided that the Chairperson, Vice-Chairperson or Member shall, unless he is permitted by the Central Government to relinquish his office sooner, continue to hold office until the expiry of three months from the date of receipt of such notice or until a person duly appointed as his successor enters upon his office or until the expiry of his term of office, whichever is the earliest.

Filling of casual vacancy.

45E. If a casual vacancy occurs in the office of the Chairperson, Vice-Chairperson or Member of the Authority, whether by reason of his death, resignation or otherwise, such vacancy shall be filled within a period of ninety days by making a fresh appointment in accordance with the provisions of section 45 and the person so appointed shall hold office for the remainder of the term of office for which the Chairperson, Vice-Chairperson or Member of the Authority, as the case may be, in whose place he is so appointed.

Restriction of reemployment. 45F. The Chairperson, Vice-Chairperson and Member of the Authority, on ceasing to hold office shall not, for a period of two years, accept any employment (including as consultant or otherwise) in any co-operative society:

Provided that nothing contained in this section shall apply to any employment under the Central Government or in any State Government or any Corporation established by or under any Central or State Act or a Government Company as defined under clause (45) of section 2 of the Companies Act, 2013.

18 of 2013.

Vacancies, etc., not to invalidate proceedings of Authority.

- 45G. No act or proceeding of the Authority shall be invalid merely by reason of—
 - (a) any vacancy in, or any defect in the constitution of the Authority;
 - (b) any defect in the appointment of a person as Chairperson or Member of the Authority; or
 - (c) any irregularity in the procedure of the Authority not affecting the merits of the case.

Meetings of Authority.

- 45H. (1) The Authority shall meet at such places and times and shall observe such rules of procedure in regard to the transaction of business at its meetings (including the quorum at its meetings), as may be prescribed.
- (2) The Chairperson of the Authority shall preside at the meeting of the Authority and if for any reason the Chairperson of the Authority is unable to attend a meeting of the Authority, the Vice-Chairperson of the Authority shall preside at the meeting.
- (3) All questions which come up before any meeting of the Authority shall be decided by a majority of votes of the members present and voting and, in the event of an equality of votes, the Chairperson or the Vice-Chairperson of the Authority presiding shall have the right to exercise a second or casting vote.
- (4) Save as otherwise provided in sub-section (1), every Member shall have one vote.

Functions of Authority.

- 45-I. The Authority shall discharge the following functions, namely:—
 - (i) conduct the elections of the multi-State co-operative society;
- (ii) supervise, direct and control the matters relating to preparation of electoral rolls; and
 - (iii) such other functions as may be prescribed.

Elections of members of board.

45J. (1) No person shall be eligible to be elected as a member of the board or office bearer of a multi-State co-operative society, unless he is an active member of the general body of that society.

Explanation.—For the purposes of this sub-section, the term "active member" means any member—

- (i) availing minimum level of products or services of the society; or
- (ii) attending not less than three consecutive general meetings, as specified in section 29.

- (2) A member of the board or office bearer of a multi-State co-operative society shall cease to be such member or office bearer, if he ceases to be a member of general body of that society.
- (3) The election of members of board shall be held by secret ballot in such manner as may be prescribed.
- (4) The election of the members of the board shall be held in the general meeting of the members of the multi-State co-operative society and the elected members of the board shall, if the bye-laws of such society permit, be eligible for re-election.
- (5) The term of office of elected members of the board and its office bearers shall be five years from the date of election and the term of office bearers shall be co-terminus with the term of the board:

Provided that the board may fill casual vacancies up to one-third of number of elected directors on the board by nomination out of the same class of members in respect of which the casual vacancy has arisen, if the term of office of the board is less than half of its original term:

Provided further that in case the number of such casual vacancies in the same term of the board exceeds one-third of number of elected directors, such vacancies shall be filled by elections.

- (6) The expenses for holding elections by the Authority shall be borne by the multi-State co-operative society in such manner as may be prescribed.
- (7) The Central Government may make rules to provide for the powers and the procedure to be followed by the Authority for conduct of election of members of the board.
- (8) The Chairperson and the Chief Executive of the multi-State co-operative society shall inform the Authority, six months before the expiry of the term of the existing board, to conduct the elections within time.
- (9) The multi-State co-operative society in respect of which the election is being held shall provide such infrastructure, personnel, information, documents or other assistance to the Authority as it may require.
- 45K. (1) The Authority may appoint a Returning Officer to conduct the election of the multi-State co-operative societies and discharge such functions, as directed by the Authority, in such manner as may be prescribed.

Appointment of Returning Officer and other officers.

- (2) The Central Government shall provide such staff and officers to the Authority as may be necessary for the efficient discharge of functions by the Authority under the Act.
 - (3) The Authority may appoint,—
 - (a) such observers as it may consider necessary to supervise the elections and discharge such other functions as may be prescribed; and
 - (b) such number of Assistant Returning Officers as it may consider necessary to assist the Returning Officer.
- 45L. The Authority may, by general or special order, issue such directions to the board, its members, Chief Executive and other staff of the multi-State co-operative society as may be necessary for the conduct of free and fair elections and the board, its members, Chief Executive and staff of the society shall comply with such directions.'.

Power to issue directions.

18. In section 49 of the principal Act, in sub-section (2),—

(i) after clause (a), the following clause shall be inserted, namely:—

"(aa) to elect the Chairperson and Vice-Chairperson or President and Vice-President of the multi-State co-operative society from amongst the elected members of the board in accordance with the directions of the Authority:

Amendment of section 49.

Provided that the certificate of election shall be issued by the Chief Executive of the multi-State co-operative society after conclusion of resolution by the board;";

(ii) in clause (e), the following proviso shall be inserted, namely:—

"Provided that the recruitment of such employees shall be subject to such procedure as may be prescribed.".

Amendment of section 50.

- 19. In section 50 of the principal Act,—
 - (a) in sub-section (1), the following provisos shall be inserted, namely:—

"Provided that where such Chairperson or President fails to direct the Chief Executive to convene the meeting of the board within the quarter, such Chief Executive shall convene the meeting on the basis of requisition of the Vice-Chairperson or Vice-President or any other Member of the board:

Provided further that notwithstanding anything contained in the first proviso, the Chief Executive may also convene the meeting on the basis of requisition from at least fifty per cent. of Members of the board;";

- (b) for sub-section (3), the following sub-sections shall be substituted, namely:—
 - "(3) The Chairperson or President, if for any reason, is unable to attend a meeting of the board, the Vice-Chairperson or Vice-President and in the absence of both, any other Member of the board chosen by the Members of the board present from amongst themselves at the meeting, shall preside over the meeting.
 - (4) The quorum for a meeting of the board of directors of a multi-State co-operative society shall be one-third of its total number of elected directors.".

Amendment of section 51.

- **20.** In section 51 of the principal Act, after sub-section (1), the following sub-section shall be inserted, namely:—
 - "(1A) No multi-State co-operative society shall appoint or continue the employment of any person as the Chief Executive who—
 - (a) is below the age of twenty-one years or has attained the age of seventy years:

Provided that any person above the age of seventy years may be appointed by a special resolution passed by three-fourth of the board members, in which case the explanatory statement annexed to the notice for such motion shall indicate the justification for appointing such person;

- (b) is an undischarged insolvent or has any time been adjudged as an insolvent;
- (c) has at any time been convicted by a court of an offence and sentenced for a period of more than six months; or
- (d) does not meet the criteria for 'fit and proper', as determined by the Central Registrar in case of multi-State credit societies or in case of non-credit multi-State societies, does not meet the criteria as Central Government may prescribe in terms of education qualifications and relevant experience.".

Amendment of section 52.

21. In section 52 of the principal Act, in clause (*j*), for the words "thirty days", the words "forty-five days" shall be substituted.

Amendment of section 53.

- **22.** In section 53 of the principal Act, for sub-section (*I*), the following sub-section shall be substituted, namely:—
 - "(1) The board may constitute an Executive Committee, and such other committees or sub-committees as may be specified in the bye-laws of the multi-State co-operative society:

Provided that the board shall constitute—

- (a) an Audit and Ethics Committee;
- (b) a Committee on prevention of sexual harassment at work place.".
- **23.** In section 63 of the principal Act, in sub-section (*I*), for clause (*b*), the following clause shall be substituted, namely:—

Amendment of section 63.

- "(b) credit annually one per cent. of net profit to co-operative education fund to be maintained by the Central Government in such manner as may be prescribed and the proceeds from such fund shall be used for co-operative education and training through the National Co-operative Union of India and any other agency in such manner as may be determined by the Central Government;".
- **24.** After section 63 of the principal Act, the following sections shall be inserted, namely:—

new sections 63A, 63B and 63C.

'63A. (1) The Central Government shall establish a Fund, to be called the Co-operative Rehabilitation, Reconstruction and Development Fund for revival of sick multi-State co-operative societies as referred to in section 63B and for development purposes in such manner as may be determined by it and there shall be credited to such Fund annually by multi-State co-operative societies which are in profit for the preceding three financial years one crore rupees or one per cent. of the net profits of such multi-State co-operative society, whichever is less.

Establishment of Co-operative Rehabilitation, Reconstruction and Development Fund.

- (2) The Central Government shall, by notification, constitute a Committee, consisting of such members as it may deem fit, to administer the Fund, and maintain separate accounts and other relevant records in relation to the Fund in such form as may be specified by the Central Government in consultation with the Comptroller and Auditor-General of India.
- (3) The Committee shall spend the money out of the Fund for carrying out the objects for which such Fund has been established.
- 63B. (1) If, at any time, the Central Registrar, is of the opinion that a multi-State co-operative society has become sick, he may, by an order, declare such society as sick co-operative society.

Rehabilitation and reconstruction of sick societies.

- (2) Where a multi-State co-operative society is declared as a sick co-operative society under sub-section (*I*), the Central Government or any person or agency authorised by it, may prepare a scheme for rehabilitation and reconstruction of the society and hand it over to the society for approval of the general body.
- (3) The Central Government may, on the recommendation of the general body and to give effect to the scheme for rehabilitation and reconstruction referred to in sub-section (2), re-organise the board of such society with such persons, having experience in the field of co-operation, management, finance, accountancy and any other area relating to such societies as may be recommended by the general body:

Provided that in respect of a sick multi-State co-operative bank, any scheme for rehabilitation or reconstruction shall be done with the prior approval of the Reserve Bank.

Explanation.—For the purposes of this section, the expression "sick co-operative society" means a multi-State co-operative society being a society registered under the provisions of this Act which has at the end of any financial year accumulated losses equal to or exceeding total of its paid-up capital, free reserves and surpluses and has also suffered cash losses in such financial year and the financial year immediately preceding such financial year.

Financial assistance to multi-State co-operative societies for development.

63C. (1) The Central Government may, on an application made by a multi-State co-operative society which has contributed to the Fund for continuous five preceding financial years, grant such financial assistance as it may consider appropriate to the society out of the Fund for infrastructural requirement:

Provided that at least fifty per cent. of the total requirement shall be borne by the multi-State co-operative society and the financial assistance from the Fund shall not exceed more than the fifty per cent. of such requirement.

(2) The Committee constituted under sub-section (2) of section 63A shall examine and recommend to the Central Government for providing the financial assistance to the multi-State co-operative society to such extent and on such terms and conditions as it may consider necessary.'.

Amendment of section 64

25. In section 64 of the principal Act,—

- (i) for clause (b), the following clause shall be substituted, namely:—
- "(b) in any of the securities issued by the Central Government, State Government, Government Corporations, Government Companies, Authorities, Public Sector Undertakings or any other securities ensured by Government guarantees;";
- (ii) in clause (d), after the words "any other institution", the words "in the same line of business as the multi-State co-operative society" shall be inserted;
 - (iii) for clauses (e) and (f), the following clauses shall be substituted, namely:—
 - '(e) with any other scheduled or nationalised bank.

Explanation.—For the purposes of this clause, the expression,—

- (i) "scheduled bank" shall have the same meaning as assigned to it in clause (e) of section 2 of the Reserve Bank of India Act, 1934; and
- 2 of 1934.
- (ii) "nationalised bank" means a corresponding new bank constituted under sub-section (1) of section 3 of the Banking Companies (Acquisition and Transfer of Undertakings) Act, 1970 and the Banking 5 of 1970. Companies (Acquisition and Transfer of Undertakings) Act, 1980; or

40 of 1980.

(f) in such other manner as may be determined by the Central Government.'.

Amendment of section 67.

26. In section 67 of the principal Act, in sub-section (1), in the first proviso, for the words "ten times", the words "such multiples as may be determined by the Central Government" shall be substituted.

Amendment of section 70.

- 27. In section 70 of the principal Act,—
- (a) in sub-section (2), for the proviso, the following provisos shall be substituted, namely:-

"Provided that such auditors or auditing firm shall be appointed from a panel approved by the Central Registrar:

Provided further that in case of multi-State co-operative banks, multi-State credit societies with deposits of above five hundred crore rupees and multi-State non-credit societies with turnover of above five hundred crore rupees, the auditor shall be appointed from a panel of auditors approved for audit of such societies by the Central Registrar.";

- (b) after sub-section (3), the following sub-section shall be inserted, namely:—
- "(3A) An auditor appointed under sub-section (2) shall submit the audit of accounts report to the multi-State co-operative society, within

six months from the date of closing of the financial year, to which such accounts relate.":

(c) in sub-section (7), in clause (a), for the proviso, the following proviso shall be substituted, namely:—

"Provided that where such vacancy is caused by the resignation or death of an auditor, the vacancy shall be filled by the board from the panel of auditors from which such auditor was appointed.";

- (d) after sub-section (9) and the Explanation thereunder, the following sub-section shall be inserted, namely:—
 - "(10) The audit report of the accounts of the national co-operative societies shall be laid before each House of Parliament.".
- **28.** After section 70 of the principal Act, the following section shall be inserted, namely:—

Insertion of new section 70A.

"70A. In case of multi-State co-operative societies,—

Concurrent Audit.

- (i) having an annual turnover more than the amount as determined by the Central Government; or
- (ii) having deposit of more than the amount as determined by the Central Government,

the concurrent audit shall be carried out by an auditor appointed from a panel of auditors approved by the Central Registrar.".

29. In section 73 of the principal Act, after sub-section (5), the following sub-section shall be inserted, namely:—

Amendment of section 73.

"(6) the multi-State co-operative society or class of multi-State co-operative societies, as the case may be, shall adopt such standards of auditing and accounting as may be determined by the Central Government:

Provided that until such standards of auditing and accounting are specified, the auditing and accounting standards specified by the Institute of Chartered Accountants of India constituted by sub-section (1) of section 3 of the Chartered Accountants Act, 1949 shall be deemed to be the standards of auditing and accounting:

Provided further that the multi-State co-operative banks shall adopt the standards of accounting and auditing, if any, laid down by the Reserve Bank.".

30. In section 78 of the principal Act, after sub-section (*I*), the following sub-sections shall be inserted, namely:—

Amendment of section 78.

"(1A) If the Central Registrar is satisfied on the basis of information available with him or furnished to him by a Government agency, that the business of a multi-State co-operative society is being carried on for a fraudulent or unlawful purpose, he may, after informing the multi-State co-operative society of the allegations made against it, by a written order, call on the multi-State co-operative society to furnish in writing any information or explanation, with the endorsement of the board of the society, on matters contained in such order within the time specified therein:

Provided that if the Central Registrar is not satisfied with the explanation of the society, he shall either himself or through an office or agency authorised by him, conduct inquiry into the constitution, working and financial condition of the society.

(1B) Notwithstanding anything contained in this Act, the Central Registrar shall, either *suo motu* or through an officer or agency authorised by him, conduct inquiry into the constitution, working and financial condition of any multi-State co-operative society, once in such period as may be determined by the Central Government.".

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Insertion of new Chapter IXA.

31. After Chapter IX of the principal Act, the following Chapter shall be inserted, namely:—

"CHAPTER IXA

REDRESSAL OF COMPLAINTS

Co-operative Ombudsman.

- 85A. (1) The Central Government shall appoint, one or more Co-operative Ombudsman with territorial jurisdiction for inquiring into the complaints made by any member of the multi-State co-operative societies regarding their deposits, equitable benefits of society's functioning or any other issue affecting the individual rights of the concerned member, in such manner, as may be prescribed.
- (2) The Co-operative Ombudsman shall, on receipt of a complaint, complete the process of inquiry and adjudicate within a period of three months from the date of receipt of the complaint and may issue necessary directions to the society during the course of inquiry and the society shall be bound to comply with the same within a period of one month from the date of issuance of such directions.
- (3) The multi-State co-operative society aggrieved by any directions of the Ombudsman may file an appeal in such manner as may be prescribed, within a period of one month before the Central Registrar who shall decide the appeal within a period of forty-five days and the decision of the Central Registrar shall be final and binding:

Provided that the Central Registrar may entertain the appeal after the expiry of said period of one month, if he is satisfied that the society was prevented by sufficient cause from preferring the appeal in time.

- (4) The Ombudsman shall submit periodic reports to the Central Registrar of Co-operative Societies.
- (5) The Co-operative Ombudsman while conducting the inquiry under sub-section (1), shall exercise the same powers as are vested in a civil court under the Code of Civil Procedure, 1908,—

5 of 1908.

- (a) for summoning and enforcing the attendance of persons;
- (b) examining them on oath;
- (c) discovery and production of books of account and other documents; and
- (d) any other matter which may be prescribed.".

Amendment of section 86.

- 32. In section 86 of the principal Act,—
- (a) in sub-section (1), after the words and figures "under section 79", the words and figures "or section 108" shall be inserted;
 - (b) in sub-section (2),—
 - (i) for clause (a), the following clause shall be substituted, namely:—
 - "(a) where the number of members or the number of societies or the number of persons, as the case may be, has at any time reduced below the number of members or societies or persons as specified in sub-section (2) of section 6:

Provided that the multi-State co-operative society shall be given six months' time to restore the number of members or societies or persons to the requisite number;";

(*ii*) in clause (*b*), for the words "co-operative principles.", the words "co-operative principles; or" shall be substituted;

(iii) after clause (b), the following clause shall be inserted, namely:—

- "(c) where the Central Registrar has reasons to believe that the registration was obtained by misrepresentation of facts, submission of false or misleading information, suppression of material facts or fraud thereby compromising the spirit of co-operation.".
- (c) for sub-section (5), the following sub-section shall be substituted, namely:—
- "(5) Notwithstanding anything contained in this section, in case of winding up of multi-State co-operative banks, the provisions of the Banking Regulation Act, 1949 shall also apply.".
- (d) in sub-section (6), the following shall be inserted, namely:—

'Provided that prior to winding up, "no objection" from the institutional lenders, who have outstanding loans from the society, shall be required in writing.

Explanation.—For the purposes of this proviso, the expression "institutional lenders" includes banks, savings and loan association, trust company, insurance company, real estate investment trust, pension fund and the like.'.

33. In section 94 of the principal Act, in the opening paragraph, after the words and figures "section 83 or", the words and figures "section 84 or" shall be inserted.

Amendment of section 94.

34. In section 98 of the principal Act, after sub-section (2), the following sub-section Amendment of shall be inserted, namely:—

section 98.

- "(3) The Central Registrar shall also have the power to recover the following dues by attaching bank accounts of defaulting multi-State co-operative societies—
 - (a) the co-operative education fund referred to in clause (b) of sub-section (1) of section 63;
 - (b) the Co-operative Rehabilitation, Reconstruction and Development Fund established under section 63A; and
 - (c) the expenses incurred by the Co-operative Election Authority for conduct of elections.".
- 35. After section 98 of the principal Act, the following section shall be inserted, Insertion of namely:-

new section

"98A. The Central Registrar may, on an application received from any party, Review of review his decision under clause (a) or clause (b) or clause (c) of sub-section (1) of section 94:

Provided that no application for review shall be entertained against the recovery certificate issued by the Central Registrar or by any person authorised by him in writing in this behalf, unless the applicant deposits with the concerned society, fifty per cent. of the amount of the recoverable dues:

Provided further that no application for review shall be entertained, if made after sixty days of the date of receipt of the decision or order:

Provided also that the Central Registrar may entertain any such application made after such period, if the applicant satisfies that he had sufficient cause for not making the application within such period.".

36. In section 103 of the principal Act, in sub-section (1), the following provisos shall be inserted, namely:-

Amendment of section 103.

"Provided that where all the successor States take necessary steps to divide or reorganise such deemed multi-State co-operative society into State co-operative

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societies in order to confine their objects, services and the members to respective States within a period of three years, such deemed multi-State co-operative society shall cease to be a multi-State co-operative society:

Provided further that the deemed multi-State co-operative society other than those mentioned in the first proviso shall submit an application for registration and obtain the certificate of registration from the Central Registrar.".

Amendment of section 104.

- 37. In section 104 of the principal Act,—
 - (a) in sub-section (1),—
 - (i) after the words "furnishing false information", the words "or failing to file any return or information" shall be inserted;
 - (ii) for the words "two thousand rupees", the words "five thousand rupees" shall be substituted;
 - (iii) for the words "ten thousand rupees", the words "one lakh rupees" shall be substituted;
- (b) in sub-section (2), for the words "five thousand rupees", the words "ten thousand rupees" shall be substituted;
 - (c) in sub-section (3),—
 - (i) after the word and figures "section 89", the words and figures "or to a person required to file return under section 120" shall be inserted;
 - (ii) for the words "two thousand rupees", the words "five thousand rupees" shall be substituted;
 - (iii) for the words "five thousand rupees", the words "ten thousand rupees" shall be substituted;
 - (d) in sub-section (4),—
 - (i) in clause (h), after the words "to any person", the words "or receives such gift, promise or gratification" shall be inserted;
 - (ii) in the long line, occurring after sub-clause (iii) of clause (h), after the words "or with both", the words "and shall also be debarred from contesting elections for a period of three years" shall be inserted;
 - (e) after sub-section (4), the following sub-section shall be inserted, namely:—
 - "(5) Where a multi-State co-operative society,—
 - (a) which is required to provide an explanation or make a statement during the course of inspection, inquiry or investigation, destroys, mutilates or falsifies, or conceals or tampers or unauthorisedly removes, or causes the destruction, mutilation or falsification or concealment or tampering or unauthorised removal of, any document relating to the property, assets or affairs of the society or makes or causes to make a false entry in any document concerning the society;
 - (b) makes any investment in contravention of the provision of section 64 or the bye-laws made under this Act;
 - (c) causes unlawful loss to the assets and property of the society; or
 - (d) causes unlawful loss to the depositor,

the board of directors or the responsible officers of the multi-State co-operative society shall be punishable with imprisonment for a term which shall not be less than one month but which may extend to one year or with fine which shall not

be less than five thousand rupees but may extend to one lakh rupees or with both.

- (6) Where the board of directors or officers of the multi-State co-operative society receive any unlawful gains while transacting matters related to such society or utilise any assets of the society for personal unlawful gains, such directors or officers concerned shall be punishable with imprisonment for a term which shall not be less than one month but which may extend to one year or with fine which shall not be less than five thousand rupees but may extend to one lakh rupees or with both and the proceeds of such unlawful gains shall be recovered from them and deposited in such manner as may be prescribed.".
- **38.** After section 105 of the principal Act, the following section shall be inserted, namely:—

Insertion of new section 105A.

"105A. The provisions of this Act shall be in addition to, and not in derogation of, any other law for the time being in force.".

Provisions of this Act not in derogation of any other law.

39. For section 106 of the principal Act, the following sections shall be substituted, namely:—

Substitution of new sections for section 106.

"106. (1) Every multi-State co-operative society shall appoint a Co-operative Information Officer to provide the information relating to affairs and management of the society to the members of the society and such information shall be confined to the information falling under the disclosure norms specified by the society in its bye-laws.

Appointment of Co-operative Information

Officer.

- (2) Any member of multi-State co-operative society shall make an application, accompanying such fee as may be prescribed, to get information specified in sub-section (1).
- (3) The Co-operative Information Officer shall, within thirty days from the date of receipt of application, either provide the information or reject the application specifying the reason to do so.
- (4) Any member of the multi-State co-operative society whose application has been rejected may prefer an appeal to the Co-operative Ombudsman within a period of one month from the date of such rejection and his decision shall be final and binding.

106A. Every Chief Executive of multi-State co-operative society shall keep a copy of the rules and its bye-laws and also a list of its members, open to inspection free of charge at all reasonable times, at the registered address of the multi-State co-operative society.".

Copy of rules and bye-laws, etc., for inspection.

- **40.** In section 108 of the principal Act, in sub-section (I), in clause (i), after the words "Central Registrar" the words, "or any person authorised by him in this behalf, not below the rank of Assistant Commissioner or equivalent" shall be inserted.
- Amendment of section 108
- **41.** In section 109 of the principal Act, in clause (*a*), for the words "co-operative year", the words "financial year" shall be substituted.
- Amendment of section 109.

42. In section 116 of the principal Act,—

Amendment of section 116.

(i) for the marginal heading, the following marginal heading shall be substituted, namely:—

"Power to amend Schedules.":

(ii) after sub-section (1), the following sub-section shall be inserted, namely:—

"(1A) If the Central Government is satisfied that it is necessary or expedient so to do, it may, by notification, amend the First Schedule and the Third Schedule

and thereupon such Schedules shall be deemed to have been amended accordingly:

Provided that in case of the First Schedule, such notification shall be used only for adding to the co-operative principles in the list.";

(iii) in sub-section (2), for the word, brackets and figure "sub-section (I)", the words, brackets, figures and letter "sub-sections (I) and (IA)" shall be substituted.

Amendment of section 120.

- **43.** In section 120 of the principal Act,—
 - (i) for clause (a), the following clause shall be substituted, namely:—
 - "(a) annual report of the activities including details of board decisions which were not unanimous;";
 - (ii) for clause (f), the following clauses shall be substituted, namely:—
 - "(f) disclosure regarding employees who are relatives of Members of board;
 - (g) declaration of any related party transactions by the board of directors; and
 - (h) any other information required by the Central Registrar in pursuance of any of the provisions of this Act or the rules made thereunder.".
- **44.** After section 120 of the principal Act, the following sections shall be inserted, namely:—

Insertion of new sections 120A and 120B.

Filing of applications, documents, inspections, etc., in electronic form.

"120A. (1) Notwithstanding anything to the contrary contained in this Act, and without prejudice to the provisions of the Information Technology Act, 2000, the 21 of 2000. Central Government may, from such date as may be notified, require that—

- (a) such applications, returns, reports, statement of accounts, or any other particulars or document as may be required to be filed or delivered under this Act or the rules made thereunder, shall be filed in the electronic form and authenticated:
- (b) such document, notice, any communication or intimation, as may be required to be served or delivered under this Act, shall be served or delivered in the electronic form and authenticated;
- (c) such applications, returns, reports, statement of accounts, registers, bye-laws or any other particulars or documents and returns filed under this Act or the rules made thereunder shall be maintained by the Central Registrar in the electronic form and registered or authenticated, as the case may be;
- (d) such inspection of bye-laws, returns, reports, statement of accounts or any other particulars or documents maintained in the electronic form, as is otherwise available for inspection under this Act or the rules made thereunder, may be made by any person through the electronic form; and
- (e) such fees, charges or other sums payable under this Act or the rules made thereunder shall be paid through the electronic form,

in such manner as may be prescribed.

- (2) The Central Registrar shall—
 - (a) issue certificate of registration;
 - (b) register the amendment of bye-laws;
 - (c) register change of registered office;

- (d) register any document;
- (e) issue any certificate;
- (f) issue notice; and
- (g) receive such communication as may be required to be registered or issued or received, as the case may be,

under this Act or the rules made thereunder or perform duties or discharge functions or exercise powers under this Act or the rules made thereunder or do any act which is by this Act directed to be performed or discharged or exercised or done by the Central Registrar, in the electronic form in such manner as may be prescribed.

120B. The provisions of this Act shall apply to a multi-State co-operative society in respect of matters relating to incorporation, regulation and winding up:

Application of Banking Regulation Act, 1949.

Provided that in case of a multi-State co-operative society carrying on the business of banking, the provisions of the Banking Regulation Act, 1949 shall also apply.".

1 of 1956. 54 of 1969. 18 of 2013.

10 of 1949.

45. In section 121 of the principal Act, in sub-section (*I*), for the words and figures "the Companies Act, 1956" and "the Monopoly and Restrictive Trade Practices Act, 1969", the words and figures "the Companies Act, 2013" and "the Competition Act, 2002" shall respectively be substituted.

Amendment of section 121.

46. In section 123 of the principal Act,—

Amendment of section 123.

- (i) in sub-section (1),—
- (a) for the portion beginning with "or has committed any act" and ending with "the aggregate period does not exceed one year", the following shall be substituted, namely:—

"or has committed any act including fraud, misappropriation and the like which is prejudicial to the interests of the society or its members, or has omitted or failed to comply with any directions given to it under section 122 in public interest or that there is a stalemate in the constitution or functions of the board or the Co-operative Election Authority has failed to conduct elections in accordance with the provisions of this Act, the Central Government may, after giving the board an opportunity to state its objections, if any, and considering the objections, if received, by order in writing, supersede or suspend the board and appoint one or more administrators, who need not be members of the society, to manage the affairs of the society for such period not exceeding six months, as may be specified in the order:";

(b) for the proviso, the following proviso shall be substituted, namely:—

"Provided that while taking a decision for supersession or suspension on grounds of failure to conduct election, such action shall only be taken if the Board had not given requisition to hold election to the Co-operative Election Authority within the time limit or not extended necessary assistance as per the provisions of section 45.";

(ii) for the Explanation, the following Explanation shall be substituted, namely:—

'Explanation.—For the purposes of section 122 and this section, the expression "specified multi-State co-operative society" means any multi-State co-operative society where there is Government shareholding or loan or financial assistance or any guarantee by the Government.'.

Amendment of section 124.

- 47. In section 124 of the principal Act,—
 - (a) in sub-section (2),—
 - (i) after clause (a), the following clause shall be inserted, namely:—
 - "(aa) the guidelines under sub-section (2) of section 7;";
 - (ii) after clause (j), the following clause shall be inserted, namely:—
 - "(*ja*) the manner in which the board of a multi-State co-operative society shall provide information, documents, personnel, funds or expenses or any other assistance as sought by the Co-operative Election Authority for conducting elections under clause (*a*) of sub-section (2) of section 43;":
 - (iii) for clause (k), the following clauses shall be substituted, namely:—
 - "(*k*) the composition of the Selection Committee for appointment of Chairperson, Vice-Chairperson and Members of the Co-operative Election Authority under sub-section (*I*) of section 45;
 - (*ka*) the qualification and experience for appointment of Member of the Authority under clause (*iii*) of sub-section (*3*) of section 45;
 - (*kb*) the salaries and allowances payable to, and other terms and conditions of service of the Chairperson, Vice-Chairperson and Members of the Authority under sub-section (*5*) of section 45;
 - (kc) the other powers and functions of Chairperson under section 45A:
 - (kd) the procedure of inquiry under sub-section (2) of section 45B;
 - (ke) time, places and the procedure to be observed by the Authority in regard to transaction of business at its meetings under sub-section (I) of section 45H;
 - (kf) other functions of the Authority under clause (iii) of section 45-I;
 - (kg) the manner of election of members of board by secret ballot under sub-section (3) of section 45J;
 - (kh) the manner of bearing the expenses for holding elections by the Authority under sub-section (6) of section 45J;
 - (ki) the manner of discharge of functions by the Returning Officers and observers under sub-section (I) and clause (a) of sub-section (3) of section 45K:
 - (kj) other functions of the observers under clause (a) of sub-section (3) of section 45K;";
 - (iv) after clause (m), the following clause shall be inserted, namely:—
 - "(ma) the procedure for recruitment of employees under proviso to clause (e) of sub-section (2) of section 49;";
 - (v) clause (o) shall be omitted;
 - (vi) after clause (q), the following clause shall be inserted, namely:—
 - "(qa) the manner of maintenance of fund under clause (b) of sub-section (1) of section 63;";
 - (vii) after clause (s), the following clauses shall be inserted, namely:—
 - "(sa) the manner of appointment of Co-operative Ombudsman and submission of complaints to such Ombudsman under sub-section (1) of section 85A;

- (sb) the manner of filing an appeal by society against directions of Ombudsman under sub-section (3) of section 85A;
- (sc) other matters under clause (d) of sub-section (5) of section 85A;";
- (viii) after clause (w), the following clauses shall be inserted, namely:—
- "(wa) the manner of recovery and deposit of proceeds of unlawful gains under sub-section (6) of section 104;
- (wb) the manner to make an application with such fee for the purpose of getting information under sub-section (2) of section 106;";
- (ix) after clause (x), the following clauses shall be inserted, namely:—
- "(xa) the manner of powers being exercised by the Central Government in respect of matters relating to filing of applications, documents, inspections and the like in electronic form under sub-section (I) of section 120A;
- (xb) the manner of discharging the functions or exercising powers with respect to matters mentioned therein by the Central Registrar in electronic form under sub-section (2) of section 120A;";
- (b) for sub-section (3), the following sub-section shall be substituted, namely:—
- "(3) Every rule made under this section and any notification issued under section 116 shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree that the rules and any notification issued under section 116 should not be made, the rule and any notification issued under section 116 shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule and any notification issued under section 116.".
- **48.** In section 125 of the principal Act, after sub-section (1), the following sub-section shall be inserted, namely:—

Amendment of section 125.

"(*IA*) Notwithstanding anything contained in sub-section (*I*), if any difficulty arises in giving effect to the provisions of this Act as amended by the Multi-State Co-operative Societies (Amendment) Act, 2023, the Central Government may, by order published in the Official Gazette, make such provisions not inconsistent with the provisions of this Act as may appear to it to be necessary for removing the difficulty:

Provided that no such order shall be made under this section after the expiry of a period of two years from the date of commencement of the Multi-State Co-operative Societies (Amendment) Act, 2023.".

49. After the Second Schedule to the principal Act, the following Schedule shall be inserted, namely:—

Insertion of Third Schedule.

"THE THIRD SCHEDULE [See clause (h) of sub-section (1) of section 43]

Sl. No. Name of the Act		Act Number
1.	The Indian Stamp Act, 1899	2 of 1899.
2.	The Reserve Bank of India Act, 1934	2 of 1934.
3.	The Central Excise Act, 1944	1 of 1944.

Sl. No.	Name of the Act	Act Number
4.	The Industries (Development and Regulation) Act, 1951	65 of 1951.
5.	The Prevention of Food Adulteration Act, 1954	37 of 1954.
6.	The Essential Commodities Act, 1955	10 of 1955.
7.	The Securities Contracts (Regulation) Act, 1956	42 of 1956.
8.	The Wealth-Tax Act, 1957	27 of 1957.
9.	The Customs Act, 1962	52 of 1962.
10.	The Prize Chits and Money Circulation Schemes (Banning) Act, 1978	43 of 1978.
11.	The Sick Industrial Companies (Special Provisions) Act, 1985	1 of 1986.
12.	The Securities and Exchange Board of India Act, 1992	15 of 1992.
13.	The Foreign Trade (Development and Regulation) Act, 1992	22 of 1992.
14.	The Foreign Exchange Management Act, 1999	42 of 1999.
15.	The Competition Act, 2002	12 of 2003.
16.	The Prevention of Money-Laundering Act, 2002	15 of 2003.
17.	The Companies Act, 2013	18 of 2013.".

DR. REETA VASISHTA, Secretary to the Govt. of India.

ಕರ್ನಾಟಕ ರಾಜ್ಯಪಾಲರ ಆದೇಶಾನುಸಾರ ಮತ್ತು ಅವರ ಹೆಸರಿನಲ್ಲಿ

(ಡಿ.ಬಿ. ಜನಾರ್ಧನ) ಸಹಾಯಕ ಪ್ರಾರೂಪಕಾರ ಮತ್ತು ಪದನಿಮಿತ್ತ ಸರ್ಕಾರದ ಉಪ ಕಾರ್ಯದರ್ಶಿ ಸಂಸದೀಯ ವ್ಯವಹಾರಗಳು ಮತ್ತು ಶಾಸನ ರಚನೆ ಇಲಾಖೆ

PR-44

ಸಂಸದೀಯ ವ್ಯವಹಾರಗಳು ಮತ್ತು ಶಾಸನ ರಚನೆ ಇಲಾಖೆ ಅಧಿಸೂಚನೆ

ಸಂಖ್ಯೆ: ಸಂವ್ಯಶಾಇ 21 ಕೇಶಾಪ್ರ 2023

ಬೆಂಗಳೂರು, ದಿನಾಂಕ:19.08.2023.

ದಿನಾಂಕ: 04.08.2023 ರಂದು ಭಾರತ ಸರ್ಕಾರದ ಗೆಜೆಟ್ನ ವಿಶೇಷ ಸಂಚಿಕೆಯ Part-II-Section-1 ರಲ್ಲಿ ಪ್ರಕಟವಾದ THE CINEMATOGRAPH (AMENDMENT) ACT, 2023 (NO. 12 OF 2023) ಅನ್ನು ಸಾರ್ವಜನಿಕರ ಮಾಹಿತಿಗಾಗಿ ಕರ್ನಾಟಕ ರಾಜ್ಯಪತ್ರದಲ್ಲಿ ಮರು ಪ್ರಕಟಿಸಲಾಗಿದೆ,-



सी.जी.-डी.एल.-अ.-05082023-247867 CG-DL-E-05082023-247867

असाधारण

EXTRAORDINARY

भाग II — खण्ड 1

PART II — Section 1

प्राधिकार से प्रकाशित

PUBLISHED BY AUTHORITY

सं॰ 15] नई दिल्ली, शुक्रवार, अगस्त 4, 2023/ श्रावण 13, 1945 (शक) NEW DELHI, FRIDAY, AUGUST 4, 2023/SRAVANA 13, 1945 (SAKA) No. 15]

इस भाग में भिन्न पृष्ठ संख्या दी जाती है जिससे कि यह अलग संकलन के रूप में रखा जा सके। Separate paging is given to this Part in order that it may be filed as a separate compilation.

MINISTRY OF LAW AND JUSTICE (Legislative Department)

New Delhi, the 4th August, 2023/Sravana 13, 1945 (Saka)

The following Act of Parliament received the assent of the President on the 4th August, 2023 and is hereby published for general information:—

THE CINEMATOGRAPH (AMENDMENT) ACT, 2023

(No. 12 of 2023)

[4th August, 2023]

An Act further to amend the Cinematograph Act, 1952.

BE it enacted by Parliament in the Seventy-fourth Year of the Republic of India as follows:-

1. (1) This Act may be called the Cinematograph (Amendment) Act, 2023.

Short title and commencement.

- (2) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.
- 2. Throughout the Cinematograph Act, 1952 (hereinafter referred to as the principal Construction Act), for the letters and word "UA" certificate, wherever they occur, the letters and words "'UA" Certificate with any UA marker' shall be substituted.

of reference of certain expressions by certain other expressions.

3. In section 1 of the principal Act, in sub-section (3), the proviso shall be omitted.

Amendment of section 1.

37 of 1952.

Amendment of section 2.

- 4. In section 2 of the principal Act,—
 - (i) after clause (dd), the following clause shall be inserted, namely:—

'(*ddd*) "infringing copy" shall have the same meaning as assigned to it in sub-clause (*ii*) of clause (*m*) of section 2 of the Copyright Act, 1957;';

14 of 1957.

- (ii) after clause (h), the following clause shall be inserted, namely:—
- '(i) "UA marker" means an age-based indicator for a film which has received or is intended to receive a "UA" certificate under section 4 and such indicator may be "UA 7+" or "UA 13+" or "UA 16+":

Provided that where the Central Government is satisfied that it is necessary or expedient so to do in public interest, it may, by an order published in the Official Gazette and for the reasons to be recorded in writing, declare such other indicators.'.

Substitution of new section for section 4.

5. For section 4 of the principal Act, the following section shall be substituted, namely:—

Examination of films.

- '4. (1) Any person desiring to exhibit any film shall make an application to the Board for a certificate in such form and manner as may be prescribed.
- (2) The Board may, after examining the film in such manner as may be prescribed,—
 - (i) sanction the film for unrestricted public exhibition:

Provided that, having regard to any material in the film, if the Board is of the opinion that viewing of such film by any child between seven to eighteen years of age is subject to guidance of parents or lawful guardian, then the Board may sanction the film for unrestricted public exhibition with an endorsement to that effect containing UA marker.

Explanation.—For the removal of doubts, it is hereby clarified that—

- (a) the expression "seven" denotes completion of seven years of age and the expression "eighteen" denotes before attaining the age of eighteen years;
- (b) an endorsement by the Board shall enable the parents and lawful guardian of the child to consider whether such child should view such a film, and shall not be enforced by any person other than the parents or lawful guardian of the child;
- (ii) sanction the film for public exhibition restricted to adults;
- (iii) sanction the film for public exhibition restricted to members of any profession or any class of persons having regard to the nature, content and theme of the film:
- (*iv*) direct the applicant to carry out such excisions or modifications in the film as it may deem necessary before sanctioning the film for public exhibition under clauses (*i*), (*ii*) and (*iii*); or
 - (v) refuse to sanction the film for public exhibition:

Provided that no action under this section shall be taken by the Board, unless the applicant has been given an opportunity of being heard in the matter.

- (3) Any person desiring to exhibit on television or such other media as may be prescribed, any film which has been sanctioned by the Board under clause (ii) or clause (iii) of sub-section (2), may make an application to the Board in such form and manner as may be prescribed, and the Board may, for this purpose, sanction the film with a separate certificate, after directing the applicant to carry out such excisions or modifications in the film as it may think fit.'.
- **6.** In section 5A of the principal Act, in sub-section (3), the words "for a period of ten years" shall be omitted.

Amendment of section 5A.

7. In section 6 of the principal Act,—

Amendment of section 6.

- (a) sub-section (1) shall be omitted;
- (b) in sub-section (2), in the opening portion, for the words, brackets and figure "Without prejudice to the powers conferred on it under sub-section (1)", the words "Subject to the provisions of this Act" shall be substituted.
- 8. After section 6A of the principal Act, the following sections shall be inserted, Insertion of namely:-

new sections 6AA and 6AB.

'6AA. No person shall use any audio-visual recording device in a place licensed to exhibit films with the intention of making or transmitting or attempting to make or transmit or abetting the making or transmission of an infringing copy of such film or a part thereof.

Prohibition of unauthorised recording.

Explanation.—For the purposes of this section, the expression "audio-visual recording device" means a digital or analogue photographic or video camera, or any other technology or device capable of enabling the recording or transmission of a copyrighted cinematographic film or any part thereof, regardless of whether audio-visual recording is the sole or primary purpose of the device.

6AB. No person shall use or abet the use of an infringing copy of any film to Prohibition of exhibit to the public for profit—

unauthorised exhibition of films

- (a) at a place of exhibition which has not been licensed under this Act or the rules made thereunder; or
- (b) in a manner that amounts to the infringement of copyright under the provisions of the Copyright Act, 1957 or any other law for the time being in
- **9.** In section 7 of the principal Act, after sub-section (1), the following sub-sections shall be inserted, namely:-

Amendment of section 7.

14 of 1957.

14 of 1957.

- '(1A) Save as otherwise provided in section 52 of the Copyright Act, 1957, if any person contravenes the provisions of section 6AA or section 6AB, he shall be punishable with imprisonment for a term which shall not be less than three months, but may extend to three years and with a fine which shall not be less than three lakh rupees but may extend to five per cent, of the audited gross production cost,
 - (1B) Notwithstanding anything contained in this section—
 - (i) a person aggrieved by a contravention under section 6AA or section 6AB shall not be prevented from taking suitable action for an infringement under section 51 of the Copyright Act, 1957 or from taking suitable action for computer related offences under section 66 of the Information Technology Act, 2000 or any other relevant laws for the time being in force;
 - (ii) the appropriate Government or its agencies shall not be prevented from taking suitable action against an intermediary as defined under clause (w)

14 of 1957.

21 of 2000.

of sub-section (1) of section 2 of the Information Technology Act, 2000, where 21 of 2000. such intermediary acts in the manner as set out under sub-section (3) of section 79 of the said Act or any other law for the time being in force.

Explanation.—For the purposes of this sub-section, the expression "appropriate Government" shall have the same meaning as assigned to it in clause (e) of sub-section (1) of section 2 of the Information Technology Act, 2000.'.

21 of 2000.

Amendment of section 8.

10. In section 8 of the principal Act, in sub-section (2), for clause (c), the following clauses shall be substituted, namely:—

"(c) the form and manner of making an application to the Board for a certificate under sub-section (1) of section 4;

- (ca) the manner of examination of film under sub-section (2) of section 4;
- (cb) the media for exhibition of film and the form and manner of making an application to the Board in this regard under sub-section (3) of section 4;".

DR. REETA VASISHTA, Secretary to the Govt. of India.

ಕರ್ನಾಟಕ ರಾಜ್ಯಪಾಲರ ಆದೇಶಾನುಸಾರ ಮತ್ತು ಅವರ ಹೆಸರಿನಲ್ಲಿ

(ಡಿ.ಬಿ. ಜನಾರ್ಧನ) ಸಹಾಯಕ ಪ್ರಾರೂಪಕಾರ ಮತ್ತು ಪದನಿಮಿತ್ತ ಸರ್ಕಾರದ ಉಪ ಕಾರ್ಯದರ್ಶಿ ಸಂಸದೀಯ ವ್ಯವಹಾರಗಳು ಮತ್ತು ಶಾಸನ ರಚನೆ ಇಲಾಖೆ

PR-45

ಸಂಸದೀಯ ವ್ಯವಹಾರಗಳು ಮತ್ತು ಶಾಸನ ರಚನೆ ಇಲಾಖೆ ಅಧಿಸೂಚನೆ

ಸಂಖ್ಯೆ: ಸಂವ್ಯಶಾಇ 22 ಕೇಶಾಪ್ರ 2023

ಬೆಂಗಳೂರು, ದಿನಾಂಕ:19.08.2023.

ದಿನಾಂಕ: 04.08.2023 ರಂದು ಭಾರತ ಸರ್ಕಾರದ ಗೆಜೆಟ್ನ ವಿಶೇಷ ಸಂಚಿಕೆಯ Part-II-Section-1 ರಲ್ಲಿ ಪ್ರಕಟವಾದ THE CONSTITUTION (SCHEDULED TRIBES) ORDER (SECOND AMENDMENT) ACT, 2023 (NO. 14 OF 2023) ಅನ್ನು ಸಾರ್ವಜನಿಕರ ಮಾಹಿತಿಗಾಗಿ ಕರ್ನಾಟಕ ರಾಜ್ಯಪತ್ರದಲ್ಲಿ ಮರು ಪ್ರಕಟಿಸಲಾಗಿದೆ,-



सी.जी.-डी.एल.-अ.-05082023-247865 CG-DL-E-05082023-247865

असाधारण

EXTRAORDINARY

भाग II — खण्ड 1

PART II—Section I

प्राधिकार से प्रकाशित

PUBLISHED BY AUTHORITY

सं॰ 17] नई दिल्ली, शुक्रवार, अगस्त 4, 2023/ श्रावण 13, 1945 (शक) No. 17] NEW DELHI, FRIDAY, AUGUST 4, 2023/SRAVANA 13, 1945 (SAKA)

इस भाग में भिन्न पृष्ठ संख्या दी जाती है जिससे कि यह अलग संकलन के रूप में रखा जा सके। Separate paging is given to this Part in order that it may be filed as a separate compilation.

MINISTRY OF LAW AND JUSTICE (Legislative Department)

New Delhi, the 4th August, 2023/Sravana 13, 1945 (Saka)

The following Act of Parliament received the assent of the President on the 4th August, 2023 and is hereby published for general information:—

THE CONSTITUTION (SCHEDULED TRIBES) ORDER (SECOND AMENDMENT) ACT, 2023

(No. 14 of 2023)

[4th August, 2023.]

An Act further to amend the Constitution (Scheduled Tribes) Order, 1950 to provide for inclusion of certain communities in the list of Scheduled Tribes in relation to the State of Himachal Pradesh.

BE it enacted by Parliament in the Seventy-fourth Year of the Republic of India as follows:—

1. This Act may be called the Constitution (Scheduled Tribes) Order Short title. (Second Amendment) Act, 2023.

2

Amendment of Constitution (Scheduled Tribes) Order, 1950. **2.** In the Schedule to the Constitution (Scheduled Tribes) Order, 1950, in Part V.— C.O. 22. *Himachal Pradesh*, after entry 10, the following entry shall be inserted, namely:—

"11. Hattee of Trans Giri area of Sirmour district.".

DR. REETA VASISHTA, Secretary to the Govt. of India.

ಕರ್ನಾಟಕ ರಾಜ್ಯಪಾಲರ ಆದೇಶಾನುಸಾರ ಮತ್ತು ಅವರ ಹೆಸರಿನಲ್ಲಿ

(ಡಿ.ಬಿ. ಜನಾರ್ಧನ) ಸಹಾಯಕ ಪ್ರಾರೂಪಕಾರ ಮತ್ತು ಪದನಿಮಿತ್ತ ಸರ್ಕಾರದ ಉಪ ಕಾರ್ಯದರ್ಶಿ ಸಂಸದೀಯ ವ್ಯವಹಾರಗಳು ಮತ್ತು ಶಾಸನ ರಚನೆ ಇಲಾಖೆ

PR-46

ಸಂಸದೀಯ ವ್ಯವಹಾರಗಳು ಮತ್ತು ಶಾಸನ ರಚನೆ ಇಲಾಖೆ ಅಧಿಸೂಚನೆ

ಸಂಖ್ಯೆ: ಸಂವ್ಯಶಾಇ 23 ಕೇಶಾಪ್ರ 2023

ಬೆಂಗಳೂರು, ದಿನಾಂಕ:19.08.2023.

ದಿನಾಂಕ: 04.08.2023 ರಂದು ಭಾರತ ಸರ್ಕಾರದ ಗೆಜೆಟ್ನ ವಿಶೇಷ ಸಂಚಿಕೆಯ Part-II-Section-1 ರಲ್ಲಿ ಪ್ರಕಟವಾದ THE FOREST (CONSERVATION) AMENDMENT ACT, 2023 (NO. 15 OF 2023) ಅನ್ನು ಸಾರ್ವಜನಿಕರ ಮಾಹಿತಿಗಾಗಿ ಕರ್ನಾಟಕ ರಾಜ್ಯಪತ್ರದಲ್ಲಿ ಮರು ಪ್ರಕಟಿಸಲಾಗಿದೆ,-



सी.जी.-डी.एल.-अ.-05082023-247866 CG-DL-E-0**5**082023-24**7866**

असाधारण

EXTRAORDINARY

भाग II — खण्ड 1

PART II — Section 1

प्राधिकार से प्रकाशित

PUBLISHED BY AUTHORITY

सं॰ 18]नई दिल्ली, शुक्रवार, अगस्त 4, 2023/ श्रावण 13, 1945 (शक)No. 18]NEW DELHI, FRIDAY, AUGUST 4, 2023/SRAVANA 13, 1945 (SAKA)

इस भाग में भिन्न पृष्ठ संख्या दी जाती है जिससे कि यह अलग संकलन के रूप में रखा जा सके। Separate paging is given to this Part in order that it may be filed as a separate compilation.

MINISTRY OF LAW AND JUSTICE (Legislative Department)

New Delhi, the 4th August, 2023/Sravana 13, 1945 (Saka)

The following Act of Parliament received the assent of the President on the 4th August, 2023 and is hereby published for general information:—

THE FOREST (CONSERVATION) AMENDMENT ACT, 2023

(No. 15 of 2023)

[4th August, 2023]

An Act further to amend the Forest (Conservation) Act, 1980.

BE it enacted by Parliament in the Seventy-fourth Year of the Republic of India as follows:—

1. (1) This Act may be called the Forest (Conservation) Amendment Act, 2023.

Short title and commencement.

(2) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

2. In the Forest (Conservation) Act, 1980 (hereinafter referred to as the principal Act), Insertion of after the long title and before the enacting formula, the following preamble shall be inserted, preamble. namely:—

"Whereas, the importance of forests is to be realised to enable achievement of national targets of Net Zero Emission by 2070 and maintain or enhance the forest carbon stocks through ecologically balanced sustainable development;

69 of 1980.

AND WHEREAS, Nationality Determined Contribution targets of the country envisage creating carbon sink of additional 2.5 to 3.0 billion tons of CO₂ equivalent by 2030;

And whereas, the country envisages an increase in the forest and tree cover to one-third of its land area, which is to be given impetus with an enhanced growth trajectory;

AND WHEREAS, India has a rich tradition of preserving forests and their bio-diversity, and, therefore, enhancing forest based economic, social and environmental benefits, including improvement of livelihoods for forest dependent communities is envisaged;

And whereas, it is necessary to provide for provisions relating to conservation management and restoration of forests, maintaining ecological security, sustaining cultural and traditional values of forests and facilitating economic needs and carbon neutrality.".

Amendment of section 1.

3. In section 1 of the principal Act, in sub-section (1), for the words and brackets "Forest (Conservation) Act", the words and brackets "Van (Sanrakshan Evam Samvardhan) Adhiniyam" shall be substituted.

Insertion of new section 1A.

4. After section 1 of the principal Act, the following section shall be inserted, namely:—

Act to cover certain land.

'1A. (1) The following land shall be covered under the provisions of this Act, namely:—

(a) the land that has been declared or notified as a forest in accordance with the provisions of the Indian Forest Act, 1927 or under any other law for the time being in force;

16 of 1927.

(b) the land that is not covered under clause (a), but has been recorded in Government record as forest, as on or after the 25th October, 1980:

Provided that the provisions of this clause shall not apply to such land, which has been changed from forest use to use for non-forest purpose on or before the 12th December, 1996 in pursuance of an order, issued by any authority authorised by a State Government or an Union territory Administration in that behalf.

Explanation.—For the purposes of this sub-section, the expression "Government record" means record held by Revenue Department or Forest Department of the State Government or Union territory Administration, or any authority, local body, community or council recognised by the State Government or Union territory Administration.

- (2) The following categories of land shall not be covered under the provisions of this Act, namely:—
 - (a) such forest land situated alongside a rail line or a public road maintained by the Government, which provides access to a habitation, or to a rail, and roadside amenity up to a maximum size of 0.10 hectare in each case;
 - (b) such tree, tree plantation or reafforestation raised on lands that are not specified in clause (a) or clause (b) of sub-section (1); and
 - (c) such forest land,—
 - (i) as is situated within a distance of one hundred kilometres along international borders or Line of Control or Line of Actual Control, as the

case may be, proposed to be used for construction of strategic linear project of national importance and concerning national security; or

- (ii) up to ten hectares, proposed to be used for construction of security related infrastructure; or
- (iii) as is proposed to be used for construction of defence related project or a camp for paramilitary forces or public utility projects, as may be specified by the Central Government, the extent of which does not exceed five hectares in a Left Wing Extremism affected area as may be notified by the Central Government.
- (3) The exemption provided under sub-section (2) shall be subject to such terms and conditions, including the conditions of planting trees to compensate felling of trees undertaken on the lands, as the Central Government may, by guidelines, specify.'.
- 5. In the principal Act, section 2 shall be renumbered as sub-section (1) thereof Amendment and-

of section 2.

- (a) in sub-section (1) as so renumbered.—
- (I) in clause (iii), for the words "not owned, managed or controlled by Government", the words ", subject to such terms and conditions, as the Central Government may, by order, specify" shall be substituted;
- (II) in the Explanation, for the long line occurring after clause (b), the following shall be substituted, namely:-

"but does not include any work relating to or ancillary to conservation, development and management of forests and wildlife, such as-

- (i) silvicultural operations including regeneration operations;
- (ii) establishment of check-posts and infrastructure for the front line forest staff:
 - (iii) establishment and maintenance of fire lines;
 - (iv) wireless communications;
- (v) construction of fencing, boundary marks or pillars, bridges and culverts, check dams, waterholes, trenches and pipelines;
- (vi) establishment of zoo and safaris referred to in the Wild Life (Protection) Act, 1972, owned by the Government or any authority, in forest areas other than protected areas;
- (vii) eco-tourism facilities included in the Forest Working Plan or Wildlife Management Plan or Tiger Conservation Plan or Working Scheme of that area; and
- (viii) any other like purposes, which the Central Government may, by order, specify.";
- (b) after sub-section (1) as so renumbered, the following sub-section shall be inserted, namely:-
 - "(2) The Central Government may, by order, specify the terms and conditions subject to which any survey, such as, reconnaissance, prospecting, investigation or exploration including seismic survey, shall not be treated as non-forest purpose.".

53 of 1972.

Insertion of 6. In the principal Act, after section 3B, the following section shall be inserted, new section 3C. namely:—

Power of Central Government to issue directions. "3C. The Central Government may, from time to time, issue such directions, to any authority under the Central Government, State Government or Union territory Administration, or to any organisation, entity or body recognised by the Central Government, State Government or Union territory Administration, as may be necessary for the implementation of this Act.".

DR. REETA VASISHTA, Secretary to the Govt. of India.

ಕರ್ನಾಟಕ ರಾಜ್ಯಪಾಲರ ಆದೇಶಾನುಸಾರ ಮತ್ತು ಅವರ ಹೆಸರಿನಲ್ಲಿ

(ಡಿ.ಬಿ. ಜನಾರ್ಧನ) ಸಹಾಯಕ ಪ್ರಾರೂಪಕಾರ ಮತ್ತು ಪದನಿಮಿತ್ತ ಸರ್ಕಾರದ ಉಪ ಕಾರ್ಯದರ್ಶಿ ಸಂಸದೀಯ ವ್ಯವಹಾರಗಳು ಮತ್ತು ಶಾಸನ ರಚನೆ ಇಲಾಖೆ

PR-47

ಸಂಸದೀಯ ವ್ಯವಹಾರಗಳು ಮತ್ತು ಶಾಸನ ರಚನೆ ಇಲಾಖೆ ಅಧಿಸೂಚನೆ

ಸಂಖ್ಯೆ: ಸಂವ್ಯಶಾಇ 24 ಕೇಶಾಪ್ರ 2023

ಬೆಂಗಳೂರು, ದಿನಾಂಕ:19.08.2023.

ದಿನಾಂಕ: 09.08.2023 ರಂದು ಭಾರತ ಸರ್ಕಾರದ ಗೆಜೆಟ್ನ ವಿಶೇಷ ಸಂಚಿಕೆಯ Part-II-Section-1 ರಲ್ಲಿ ಪ್ರಕಟವಾದ THE MINES AND MINERALS (DEVELOPMENT AND REGULATION) AMENDMENT ACT, 2023 (NO. 16 OF 2023) ಅನ್ನು ಸಾರ್ವಜನಿಕರ ಮಾಹಿತಿಗಾಗಿ ಕರ್ನಾಟಕ ರಾಜ್ಯಪತ್ರದಲ್ಲಿ ಮರು ಪ್ರಕಟಿಸಲಾಗಿದೆ,-



सी.जी.-डी.एल.-अ.-10082023-247989 CG-DL-E-10082023-247989

असाधारण

EXTRAORDINARY

भाग II — खण्ड 1

PART II — Section 1

प्राधिकार से प्रकाशित

PUBLISHED BY AUTHORITY

र्षं∘ 19]

नई दिल्ली, बुधवार, अगस्त 9, 2023/ श्रावण 18, 1945 (शक)

No. 19]

NEW DELHI, WEDNESDAY, AUGUST 9, 2023/SRAVANA 18, 1945 (SAKA)

इस भाग में भिन्न पृष्ठ संख्या दी जाती है जिससे कि यह अलग संकलन के रूप में रखा जा सके। Separate paging is given to this Part in order that it may be filed as a separate compilation.

MINISTRY OF LAW AND JUSTICE (Legislative Department)

New Delhi, the 9th August, 2023/Sravana 18, 1945 (Saka)

The following Act of Parliament received the assent of the President on the 9th August, 2023 and is hereby published for general information:—

THE MINES AND MINERALS (DEVELOPMENT AND REGULATION) AMENDMENT ACT, 2023

No. 16 of 2023

[9th August, 2023.]

An Act further to amend the Mines and Minerals (Development and Regulation) Act, 1957.

BE it enacted by Parliament in the Seventy-fourth Year of the Republic of India as follows:—

CHAPTER I

PRELIMINARY

1. (*I*) This Act may be called the Mines and Minerals (Development and Regulation) Amendment Act, 2023.

Short title and commencement.

(2) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

Amendment of section 3.

2. In section 3 of the Mines and Minerals (Development and Regulation) Act, 1957 67 of 1957. (hereinafter referred to as the principal Act), in section 3,—

(i) after clause (aa), the following clause shall be inserted, namely:—

'(aaa) "exploration licence" means a licence granted for undertaking reconnaissance operations or prospecting operations or both in respect of minerals specified in the Seventh Schedule;';

- (ii) in clause (ae), after the words "composite licence", the words ", exploration licence" shall be inserted;
 - (iii) for clause (ha), the following clause shall be substituted, namely:—

'(ha) "reconnaissance operations" means any operations undertaken for preliminary prospecting of a mineral through regional, aerial, geophysical or geochemical surveys and geological mapping, and include pitting, trenching, drilling and sub-surface excavation;'.

Amendment of section 4.

3. In section 4 of the principal Act, in sub-section (*I*), after the words "prospecting licence", the words "or of a exploration licence" shall be inserted.

Amendment of section 4A

- 4. In section 4A of the principal Act,—
- (i) for the marginal heading, the following marginal heading shall be substituted, namely:—

"Termination of prospecting licences, exploration licences or mining leases.";

- (ii) in sub-section (I), for the words "prospecting licence", at both the places where they occur, the words "prospecting licence or exploration licence" shall be substituted;
- (iii) in sub-section (3), after the words "prospecting licence", the words "or exploration licence" shall be inserted.

Amendment of section 5.

5. In section 5 of the principal Act, for the marginal heading, the following marginal heading shall be substituted, namely:—

"Restrictions on the grant of mineral concession.".

Amendment of section 6.

- 6. In section 6 of the principal Act,—
- (a) for the marginal heading, the following marginal heading shall be substituted, namely:—

"Maximum area for which mineral concession may be granted.";

- (b) in sub-section (1),—
 - (i) after clause (aa), the following clause shall be inserted, namely:—

"(ab) one or more exploration licences covering a total area of more than five thousand square kilometres:

Provided that the area granted under a single exploration licence shall not exceed one thousand square kilometres;";

(ii) in clause (c), for the words "reconnaissance permit, mining lease or prospecting licence", the words "mineral concession" shall be substituted.

7. In Chapter III of the principal Act, for Chapter heading, the following Chapter heading shall be substituted, namely:—

"Procedure for obtaining mineral concession in respect of land in which the minerals vest in the Government".

Substitution of Chapter heading of Chapter III. 8. In section 10 of the principal Act,—

Amendment of section 10.

- (i) for the marginal heading, the following marginal heading shall be substituted, namely:—
 - "Application for mineral concession.";
- (*ii*) in sub-section (4), in clause (a), for the words, figures and letters "sections 10B, 11, 11A or the rules made under section 11B", the words, figures and letters "sections 10B, 10BA, 11, 11A, 11B or 11D" shall be substituted.
- **9.** After section 10B of the principal Act, the following section shall be inserted, namely:—

"10BA. (1) The provisions of this section shall not apply to—

- (a) the areas covered under section 17A;
- (b) the minerals specified in Part A of the First Schedule;
- (c) the minerals specified in Part B of the First Schedule where the grade of atomic mineral is equal to or greater than such threshold value as may be notified by the Central Government from time to time;
 - (d) any land in respect of which the minerals do not vest in the Government.
- (2) Notwithstanding anything contained in sections 10B and 11, an exploration licence may be granted in any area by the State Government for the purpose of undertaking reconnaissance or prospecting operations or both in respect of any mineral specified in the Seventh Schedule.
- (3) The Central Government may, by notification in the Official Gazette, and for reasons to be recorded in writing, amend the Seventh Schedule so as to modify the entries therein with effect from such date as may be specified in the said notification.
- (4) The State Government shall, after obtaining the previous approval of the Central Government, and in such manner as may be prescribed by the Central Government, notify the areas in which exploration licence shall be granted, subject to such terms and conditions as may be specified in the notification.
- (5) The Central Government may require the State Government to notify the area for grant of exploration licence within such period as may be fixed in consultation with the State Government, and in case the State Government does not notify the area within such period, the Central Government may, after the expiry of the period so fixed, notify the area for grant of exploration licence.
- (6) The State Government shall, for the purpose of granting exploration licence through auction by method of competitive bidding, including e-auction, select an applicant who fulfils the eligibility conditions as specified in this Act and grant exploration licence to such applicant.

(7) Where—

- (a) the State Government has not successfully completed auction for the grant of exploration licence; or
- (b) after completion of auction, the exploration licence or letter of intent for grant of exploration licence has been terminated or lapsed for any reason whatsoever,

the Central Government may require the State Government to conduct and complete the auction or re-auction process, as the case may be, within such period as may be fixed in consultation with the State Government, and in cases where such auction or re-auction process is not completed within such period, the Central Government may, after the expiry of the period so fixed, conduct auction for the grant of exploration licence for such area: Insertion of new section 10BA.

Grant of exploration licence for minerals specified in Seventh Schedule through auction.

Provided that upon successful completion of the auction, the Central Government shall intimate the details of the preferred bidder in the auction to the State Government and the State Government shall grant exploration licence for such area to such preferred bidder in such manner as may be prescribed by the Central Government.

(8) The holder of exploration licence shall be entitled to a share of applicable amount quoted in the auction of mining leases payable by the lessee to the State Government in respect of the area granted in mining lease pursuant to the prospecting operations undertaken by the holder of such exploration licence:

Provided that the share in applicable amount payable to the holder of exploration licence by the lessee of such area shall be allowed only in respect of the minerals specified in the Seventh Schedule.

- (9) The Central Government shall by rules provide for the manner of conducting auction for grant of exploration licence, including its terms and conditions, the bidding parameters for selection, share payable to the holder of exploration licence from out of the applicable amount quoted in auction of mining leases payable by the lessee of such area, the period for such payment and such other conditions as may be necessary.
 - (10) Notwithstanding anything contained in section 7,—
 - (a) the exploration licence shall be granted for a period of five years from the date of execution of the exploration licence;
 - (b) if, after three years from the date of execution of exploration licence, but before the date of its expiry, the holder of the exploration licence makes an application for the extension of the period of that licence, the State Government may, on being satisfied that within the period of five years, it shall not be possible for the holder of such licence to complete the reconnaissance or prospecting operations for reasons beyond his control, extend the said period to a further period not exceeding two years.
- (11) After three years from the date of execution of the exploration licence, the holder of such licence may retain an area not exceeding twenty-five per cent. of the total area covered under that licence for the purpose of continuing reconnaissance or prospecting operations and shall surrender the remaining area after submitting a report to the State Government stating the reasons for retention of the area proposed to be retained by him and the boundaries of that area.
- (12) The holder of the exploration licence shall, within three months of the completion of the operations for which licence has been granted, or of the date of expiry of the exploration licence, whichever is earlier, submit a geological report to the State Government explaining the result of the reconnaissance and prospecting operations, in such manner as may be prescribed.
- (13) If the holder of the exploration licence fails to complete the reconnaissance and prospecting operations before expiry of the exploration licence, or fails to submit the geological report within the period specified in sub-section (12), the State Government may take such action as it deems fit, including imposition of penalty.
- (14) Within six months from the date of receipt of the geological report from the holder of the exploration licence, the Central Government or the State Government shall initiate the auction process for grant of one or more separate mining leases under section 10B or section 11 or section 11D, as the case may be, in respect of the area where existence of mineral content is established and shall select the preferred bidder for grant of such mining leases within one year from the date of receipt of the geological report:

Provided that in case the preferred bidder is not selected within the period so specified, the State Government shall pay to the person who was the holder of exploration licence such amount, and in such manner, as may be prescribed.".

10. After section 11C, the following section shall be inserted, namely:—

Insertion of new section 11D.

- "11D. (1) Notwithstanding anything contained in this Act, the Central Government shall, for the purpose of granting mining lease or composite licence in any area in respect of any mineral specified in the Part D of the First Schedule, select, through auction by method of competitive bidding, including e-auction, a preferred bidder who fulfils the eligibility conditions as specified in section 5, on such terms and conditions, and in such manner, as may be prescribed.
- Central
 Government
 to conduct
 auction for
 grant of
 mining lease
 or composite
 licence in
 respect of
 minerals
 specified in
 Part D of
 First
 Schedule.
- (2) Upon successful completion of the auction, the Central Government shall intimate the details of the preferred bidder in the auction to the State Government and the State Government shall grant mining lease or composite licence for such area, to such preferred bidder, in such manner, as may be prescribed by the Central Government.
- (3) The royalty, dead rent, applicable amount quoted in the auction and any other statutory payment in relation to the mining lease or composite licence auctioned by the Central Government shall accrue to the State Government or concerned authorities, as the case may be, as if the auction has been conducted by the State Government.".
- 11. In section 12 of the principal Act,—

Amendment of section 12.

(a) for the marginal heading, the following marginal heading shall be substituted, namely:—

"Registers of mineral concession.";

- (b) in sub-section (1),—
 - (i) in clause (e), the word "and" shall be omitted;
 - (ii) after clause (f), the following clauses shall be inserted, namely:—
 - "(g) a register of applications for exploration licences; and
 - (h) a register of exploration licences,".
- 12. In section 12A of the principal Act,—

Amendment of section 12A.

- (i) after the words "composite licence", wherever they occur, the words "or exploration licence" shall be inserted;
- (ii) in sub-section (4), in the proviso, for the words "or of a composite licence", the words "or composite licence" shall be substituted.
- **13.** In Chapter IV of the principal Act, for Chapter heading, the following Chapter heading shall be substituted, namely:—

"Rules for regulating the grant of mineral concessions".

14. In section 13 of the principal Act, in sub-section (2),—

heading of Chapter IV.

- (i) clause (ac) shall be omitted;
- (*ii*) in clause (*qqg*), for the words, figures and letters "mining lease or composite licence under section 10B, 11, 11A, 11B", the words, figures and letters "mineral concession under section 10B, 10BA, 11, 11A, 11B, 11D" shall be substituted;
 - (iii) after clause (v), the following clauses shall be inserted, namely:—
 - "(va) the manner of notifying the areas for grant of exploration licence under sub-section (4) of section 10BA;
 - (vb) the manner of granting exploration licence to the preferred bidder under the proviso to sub-section (7) of section 10BA;

Substitution of Chapter heading of

Amendment of section 13.

- (vc) the manner of conducting auction for grant of exploration licence, the terms and conditions thereof, the bidding parameters for selection, the share payable to the holder, the period for payment and other conditions under sub-section (9) of section 10BA;
- (vd) the manner of submitting geological report under sub-section (12) of section 10BA;
- (ve) the amount to be paid and the manner of payment under the proviso to sub-section (14) of section 10BA;";
- (iv) after clause (x), the following clauses shall be inserted, namely:—
- "(xa) the terms and conditions and the manner of selecting a preferred bidder under sub-section (I) of section 11D;
- (xb) the manner of granting a mining lease or composite licence to a preferred bidder under sub-section (2) of section 11D;".

Amendment of section 17A.

15. In section 17A of the principal Act, in sub-sections (I), (IA) and (2), after the words "prospecting licence", the words "or exploration licence" shall be inserted.

Amendment of section 18A.

16. In section 18A of the principal Act, in sub-section (*I*), after the words "prospecting licence", at both the places where they occur, the words "or exploration licence" shall be inserted.

Amendment of section 19.

17. In section 19 of the principal Act, for the marginal heading, the following marginal heading shall be substituted, namely:—

"Mineral concession to be void if in contravention of Act.".

Amendment of section 21.

18. In section 21 of the principal Act, in the *Explanation*, after the words "composite licence", the words ", exploration licence" shall be inserted.

Amendment of section 24A.

19. In section 24A of the principal Act, for the marginal heading, the following marginal heading shall be substituted, namely:—

"Rights and liabilities of a holder of mineral concession.".

Amendment of First Schedule.

- 20. In the principal Act, in the First Schedule,—
 - (i) after the figures and letter "11C", the figures and letter "11D" shall be inserted;
 - (ii) for Part B, the following Part shall be substituted, namely:—

"PART B

Atomic minerals

- 1. Minerals of the "rare earths" group containing Uranium and Thorium.
- 2. Phosphorites and other phosphatic ores containing Uranium.
- 3. Pitchblende and other Uranium ores.
- 4. Uraniferous allanite, monazite and other thorium minerals.
- 5. Uranium bearing tailings left over from ores after extraction of copper and gold, ilmenite and other titanium ores.
- 6. Beach sand minerals, that is, economic heavy minerals found in the teri or beach sands, which include ilmenite, rutile, leucoxene, garnet, monazite, zircon and sillimanite.";

(iii) after Part C, the following Part shall be inserted, namely:—

"PART D

Critical and Strategic Minerals

- 1. Beryl and other beryllium bearing minerals.
- 2. Cadmium bearing minerals.
- 3. Cobalt bearing minerals.
- 4. Gallium bearing minerals.
- 5. Glauconite.
- 6. Graphite.
- 7. Indium bearing minerals.
- 8. Lithium bearing minerals.
- 9. Molybdenum bearing minerals.
- 10. Nickel bearing minerals.
- 11. Niobium bearing minerals.
- 12. Phosphate (without uranium).
- 13. Platinum group of elements bearing minerals.
- 14. Potash.
- 15. Minerals of the "rare earths" group not containing Uranium and Thorium.
- 16. Rhenium bearing minerals.
- 17. Selenium bearing minerals.
- 18. Tantalum bearing minerals.
- 19. Tellurium bearing minerals.
- 20. Tin bearing minerals.
- 21. Titanium bearing minerals and ores (ilmenite, rutile and leucoxene).
- 22. Tungsten bearing minerals.
- 23. Vanadium bearing minerals.
- 24. Zirconium bearing minerals and ores including zircon.".

21. In the principal Act, after Sixth Schedule, the following shall be inserted, namely:—

"THE SEVENTH SCHEDULE

Insertion of new Seventh Schedule.

[See sections 3 (aaa), 10BA(2) and 10BA(3)]

Minerals

- 1. Apatite.
- 2. Beryl and other beryllium bearing minerals.
- 3. Cadmium bearing minerals.
- 4. Cobalt bearing minerals.
- 5. Copper bearing minerals.

- 6. Diamond.
- 7. Gold.
- 8. Graphite.
- 9. Indium bearing minerals.
- 10. Lead bearing minerals.
- 11. Lithium bearing minerals.
- 12. Molybdenum bearing minerals.
- 13. Niobium bearing minerals.
- 14. Nickel bearing minerals.
- 15. Potash.
- 16. Platinum group of elements bearing minerals.
- 17. Minerals of 'rare earths' group.
- 18. Rhenium bearing minerals.
- 19. Rock Phosphate.
- 20. Selenium.
- 21. Silver.
- 22. Tantalum bearing minerals.
- 23. Tellurium bearing minerals.
- 24. Tin bearing minerals.
- 25. Titanium bearing minerals and ores (ilmenite, rutile and leucoxene).
- 26. Tungsten bearing minerals.
- 27. Vanadium bearing minerals.
- 28. Zinc bearing minerals.
- 29. Zirconium bearing minerals and ores including zircon.".

DR. REETA VASISHTA, Secretary to the Govt. of India.

CORRIGENDA

THE BIOLOGICAL DIVERSITY (AMENDMENT) ACT, 2023

No. 10 of 2023

In the BIOLOGICAL DIVERSITY (AMENDMENT) ACT, 2023 (10 OF 2023), as published in the Gazette of India, Extraordinary, Part II Section, 1, dated the 3rd August, 2023, Issue No. 13,—

- (i) in page 2, line 41, for "refferred", read "referred";
- (ii) in page 4, line 17, for "Biodivesity", read "Biodiversity";
- (iii) in page 5, line 16, for "Pachayati", read "Panchayati";
- (iv) in page 8, line 3, for "Committee"; read "Committee";

- (v) in page 8, line 22, for "affiairs", read "affairs";
- (vi) in page 8, line 31, for "sustainble", read "sustainable";
- (vii) in page 8, line 39, for "princiapal", read "principal";
- (viii) in page 11, line 25, for "as prescribed", read "as may be prescribed";
- (ix) in page 12, line 10, for "veriety", read "variety";
- (x) in page 12, line 17, for "veriety", read "variety";
- (xi) in page 12, line 20, for "veriety", read "variety";
- (xii) in page 12, line 26, for "substituted", read "substituted";
- (xiii) in page 13, line 1, for "prinicpal", read "principal";
- (xiv) in page 13, line 11, for "princiapl", read "principal";
- (xv) in page 13, line 34, for "penalities", read "penalties";
- (xvi) in page 14, line 3, for "accordance the", read "accordance with the".

ಕರ್ನಾಟಕ ರಾಜ್ಯಪಾಲರ ಆದೇಶಾನುಸಾರ ಮತ್ತು ಅವರ ಹೆಸರಿನಲ್ಲಿ

(ಡಿ.ಬಿ. ಜನಾರ್ಧನ) ಸಹಾಯಕ ಪ್ರಾರೂಪಕಾರ ಮತ್ತು ಪದನಿಮಿತ್ತ ಸರ್ಕಾರದ ಉಪ ಕಾರ್ಯದರ್ಶಿ ಸಂಸದೀಯ ವ್ಯವಹಾರಗಳು ಮತ್ತು ಶಾಸನ ರಚನೆ ಇಲಾಖೆ

PR-48

ಸಂಸದೀಯ ವ್ಯವಹಾರಗಳು ಮತ್ತು ಶಾಸನ ರಚನೆ ಇಲಾಖೆ ಅಧಿಸೂಚನೆ

ಸಂಖ್ಯೆ: ಸಂವ್ಯಶಾಇ 25 ಕೇಶಾಪ್ರ 2023

ಬೆಂಗಳೂರು, ದಿನಾಂಕ:19.08.2023.

ದಿನಾಂಕ: 11.08.2023 ರಂದು ಭಾರತ ಸರ್ಕಾರದ ಗೆಜೆಟ್ನ ವಿಶೇಷ ಸಂಚಿಕೆಯ Part-II-Section-1 ರಲ್ಲಿ ಪ್ರಕಟವಾದ THE OFFSHORE AREAS MINERAL (DEVELOPMENT AND REGULATION) AMENDMENT ACT, 2023 (NO. 17 OF 2023) ಅನ್ನು ಸಾರ್ವಜನಿಕರ ಮಾಹಿತಿಗಾಗಿ ಕರ್ನಾಟಕ ರಾಜ್ಯಪತ್ರದಲ್ಲಿ ಮರು ಪ್ರಕಟಿಸಲಾಗಿದೆ,-



सी.जी.-डी.एल.-अ.-12082023-248041 CG-DL-E-12082023-248041

असाधारण

EXTRAORDINARY

भाग II — खण्ड 1

PART II — Section 1

प्राधिकार से प्रकाशित

PUBLISHED BY AUTHORITY

नई दिल्ली, शुक्रवार, अगस्त 11, 2023/ श्रावण 20, 1945 (शक) सं॰ 20] NEW DELHI, FRIDAY, AUGUST 11, 2023/SRAVANA 20, 1945 (SAKA) No. 201

इस भाग में भिन्न पृष्ठ संख्या दी जाती है जिससे कि यह अलग संकलन के रूप में रखा जा सके। Separate paging is given to this Part in order that it may be filed as a separate compilation.

MINISTRY OF LAW AND JUSTICE (Legislative Department)

New Delhi, the 11th August, 2023/Sravana 20, 1945 (Saka)

The following Act of Parliament received the assent of the President on the 10th August, 2023 and is hereby published for general information:—

THE OFFSHORE AREAS MINERAL (DEVELOPMENT AND REGULATION) AMENDMENT ACT, 2023

No. 17 of 2023

[10th August, 2023.]

An Act to amend the Offshore Areas Mineral (Development and Regulation) Act, 2002.

BE it enacted by Parliament in the Seventy-fourth Year of the Republic of India as follows:-

1. (1) This Act may be called the Offshore Areas Mineral (Development and Regulation) Short title and Amendment Act, 2023.

commencement.

- (2) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.
- 2. In the Offshore Areas Mineral (Development and Regulation) Act, 2002 (hereinafter Amendment referred to as the principal Act), in section 4,—

of section 4.

(i) in clause (b), after the words, brackets and figures "Mines and Minerals (Development and Regulation) Act, 1957", the words "and the rules made thereunder" shall be inserted;

17 of 2003.

67 of 1957.

- (ii) after clause (c), the following clauses shall be inserted, namely:—
- '(ca) "composite licence" means the exploration licence-cum-production lease, which is a two stage operating right granted for the purpose of undertaking exploration operation followed by production operation;
- (cb) "dispatch" means removal of minerals or mineral products from the area covered under the production lease and includes the consumption of minerals and mineral products within such area;';
- (*iii*) in clause (*d*), for the words and figures "under section 12", the words "for the purpose of undertaking exploration operation" shall be substituted;
 - (iv) after clause (e), the following clause shall be inserted, namely:—
 - '(ea) "Government company" shall have the meaning assigned to it in clause (45) of section 2 of the Companies Act, 2013;';

18 of 2013.

- (v) in clause (i), for the words "the production lease", the words "a production lease" shall be substituted;
- (vi) in clause (j), for the words "the exploration licence is granted", the words "a composite licence, or an exploration licence, is granted" shall be substituted;
- (vii) in clause (k), for the words "an exploration licence or production lease", the words "a composite licence, or an exploration licence, or a production lease" shall be substituted:
- (*viii*) in clause (*o*), for the words "an exploration licence, or a production lease", the words "a composite licence, or an exploration licence, or a production lease" shall be substituted;
 - (ix) after clause (r), the following clause shall be inserted, namely:—
 - '(ra) "production", with its grammatical variation and cognate expressions, means the winning of mineral within the area covered under a production lease for the purpose of processing or dispatch;';
- (x) in clause (t), for the words and figures "under section 13", the words and figures "under section 8 or section 12 or section 13" shall be substituted;
 - (xi) in clause (v), the words and figures "under section 11" shall be omitted;
 - (xii) after clause (v), the following clause shall be inserted, namely:—
 - '(va) "standard block" means a block of the offshore area of one minute latitude by one minute longitude and includes the seabed and its subsoil and waters superjacent to the seabed within such block;';
- (xiii) in clause (w), for the words "boat, sailing vessel or any other vessel of any description", the words "barge, boat, container, sailing vessel or stationary vessel or any other vessel of any description, submersible or otherwise and remotely operated or otherwise, used in any operation or any activity pursuant thereto" shall be substituted.
- 3. In section 5 of the principal Act,—
 - (a) in sub-section (1),—
 - (i) for the words "exploration licence or production lease granted", the words "a composite licence, or an exploration licence, or a production lease, granted" shall be substituted;
 - (ii) in the proviso,—
 - (A) for the words "Atomic Minerals Directorate of Exploration and Research", the words "Atomic Minerals Directorate for Exploration and Research" shall be substituted;

Amendment of section 5.

- (*B*) for the words "Naval Hydrographic Office of the Indian Navy", the words "the National Hydrographic Office" shall be substituted;
- (C) for the words "any other agency duly authorised in this behalf by the Central Government", the words "any other agency including a private entity, duly authorised in this behalf by the Central Government by notification in the Official Gazette, subject to such conditions as may be specified therein" shall be substituted;
- (b) for sub-section (2), the following sub-section shall be substituted, namely:—
 - "(2) Every permittee, licensee and lessee referred to in sub-section (1), and the Government organisation, agency or private entity referred to in the proviso thereof, shall—
 - (a) furnish to the administering authority and such other authority as may be prescribed, all exploration and operational data, reports, samples and other information in respect of or collected pursuant to an operation, in such manner and within such period, as may be prescribed; and
 - (b) all exploration and operational data, reports, samples and other information in respect of or collected pursuant to an operation, shall be held by such permittee, licensee, lessee, Government organisation, agency or private entity, as the case may be, in strict confidence and any dissemination, pursuant to a sale or otherwise, of such data, reports or other information, or sharing of its samples, shall be subject to such terms and conditions, as may be prescribed.";
 - (c) in sub-section (4),—
 - (i) for the words "granted or renewed", the words "granted, extended or acquired" shall be substituted;
 - (*ii*) for the words "exploration licence or production lease granted, renewed or acquired", the words "composite licence, exploration licence or production lease, granted, extended or acquired" shall be substituted.
- 4. In section 6 of the principal Act,—

Amendment of section 6.

1 of 1956. 18 of 2013.

- (*i*) in clause (*a*), for the words and figures "section 3 of the Companies Act, 1956", the words, brackets and figures "clause (*20*) of section 2 of the Companies Act, 2013" shall be substituted:
 - (ii) for the proviso, the following provisos shall be substituted, namely:—

"Provided that no exploration licence, or composite licence, or production lease shall be granted for an area to any person other than the Government, a Government company or a corporation, in respect of any minerals specified in Part B of the First Schedule to the Mines and Minerals (Development and Regulation) Act, 1957, subject to such conditions and manner as may be prescribed, where the grade of such mineral in such area is equal to or greater than such threshold value as the Central Government may, by notification in the Official Gazette, specify:

Provided further that no production lease shall be granted in respect of any part of the offshore area, unless the existence of mineral resources in such offshore area has been adequately established in accordance with such parameters as may be prescribed.".

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Amendment of section 7.

- **5.** In section 7 of the principal Act,—
 - (a) in sub-section (1),—
 - (i) for the words "that it is expedient in the interest of", the words "that it is expedient in public interest, strategic interest of the country, in the interest of" shall be substituted;
 - (ii) after the words "conservation of mineral resources", the words "or for any other reason" shall be inserted;
- (b) in sub-section (2), for the words "opportunity of being heard", the words "opportunity of being heard, except in cases where premature termination is being done on the grounds of strategic interest of the country" shall be substituted;
 - (c) in sub-section (3),—
 - (i) in the proviso, for the words "condone such non-commencement or discontinuation.", the words and figures "extend the period specified in section 14 by a further period not exceeding one year and such extension shall not be granted for more than once during the entire period of operating right:" shall be substituted;
 - (ii) after the proviso, the following proviso shall be inserted, namely:—
 "Provided further that where the holder of operating right—
 - (a) fails to undertake operation; or
 - (b) having commenced the operation, discontinues such operation,

before the end of the extended period, such operating right shall also lapse from the date of execution of the lease or, as the case may be, discontinuance of the operation.";

- (d) after sub-section (3), the following shall be inserted, namely:—
- "(4) Where the holder of a production lease fails to undertake production and dispatch for a period of four years after the date of execution of the lease, or having commenced production and dispatch, discontinues the same for a period of two years, then such lease shall lapse on the expiry of the period of four years from the date of its execution or, as the case may be, two years from date of discontinuance of the production and dispatch:

Provided that the administering authority may, on an application made by the lessee, and after being satisfied that such non-commencement of production, or dispatch, or discontinuation thereof, was due to the reasons beyond the control of the lessee, may extend such period by a further period not exceeding one year, but such extension shall not be granted for more than once during the entire period of lease:

Provided further that where the lessee,—

- (a) fails to undertake production or dispatch; or
- (b) having commenced the production and dispatch, discontinues the same,

before the end of the extended period, such lease shall lapse from the date of its execution or, as the case may be, discontinuance of production or dispatch.".

Amendment of section 8.

- **6.** In section 8 of the principal Act, after sub-section (2), the following sub-sections shall be inserted, namely:—
 - "(3) Where the Central Government reserves any offshore area under sub-section (I), the administering authority may, subject to such terms and conditions as may be prescribed, grant a composite licence, or a production lease, in such area or any part thereof to the Government, or a Government company, or a corporation.

- (4) A composite licence or a production lease granted to the Government, or a Government company, or a corporation under sub-section (3) shall be subject to the same terms and conditions applicable to a licensee or a lessee, as the case may be, except the procedure specified for grant of a composite licence under section 12 or a production lease under section 13.
- (5) Where a Government company, or corporation is desirous of carrying out the exploration operation or production operation in a joint venture with other persons, the joint venture partner shall be selected through a competitive process, and such Government company or corporation shall hold more than seventy-four per cent. of the paid up share capital in such joint venture.".

7. In section 9 of the principal Act,-

Amendment of section 9.

- (a) in sub-section (1),—
- (i) after the words "any operating right, for", the words "such period as may be specified in the order, for" shall be inserted;
- (ii) for the words "offshore mineral, or for national security", the words "offshore mineral, or for regulation of offshore areas, or for national security" shall be substituted;
- (b) in sub-section (2),—
- (i) after the words "purposes of the operating right", the words "for such period as may be specified in the order" shall be inserted;
- (ii) for the words "from the date specified therein", the words "during the period of closure specified therein" shall be substituted.
- 8. In section 10 of the principal Act,—

Amendment of section 10.

- (a) in sub-section (1),—
- (i) for the brackets, figure and words "(1) Within six months", the words "Within six months" shall be substituted;
- (ii) for the words "reconnaissance permit, exploration licence or production lease", the words "reconnaissance permit, or exploration licence, or composite licence, or production lease" shall be substituted;
- (b) sub-sections (2) and (3) shall be omitted.
- **9.** Section 11 of the principal Act shall be omitted.

Omission of section 11.

10. For sections 12 and 13 of the principal Act, the following sections shall be Substitution of substituted, namely:-

new sections for sections 12 and 13.

"12. (1) The administering authority may, in respect of an offshore area where Grant of the existence of mineral resources has not been adequately established for grant of a production lease as required by the second proviso to section 6, after inviting applications in this behalf, select any person for grant of a composite licence, who-

composite licence.

- (a) fulfils the eligibility conditions as specified in this Act and such conditions as may be prescribed; and
- (b) is selected through auction by method of competitive bidding, including e-auction, conducted on the basis of such terms and conditions, manner and bidding parameters, as may be prescribed.
- (2) The Central Government shall grant the composite licence to the person selected in accordance with the procedure laid down in sub-section (1).

(3) The licensee shall complete the exploration operations satisfactorily, as specified in the notice inviting applications, within a period of three years from the date of grant of the composite licence:

Provided that the administering authority may, on an application made by the licensee three months before the lapse of the said period, for reasons to be recorded in writing and subject to such conditions as may be prescribed, grant an extension for a period of two years to the licensee for satisfactory completion of the exploration operations:

Provided further that no further extension shall be granted upon expiry of the extended period, if any, granted under the first proviso.

- (4) The area granted under a composite licence shall comprise of contiguous standard blocks, which in aggregate do not exceed an area of thirty minutes latitude by thirty minutes longitude.
- (5) Every licensee shall, on being granted a composite licence, commence and carry out exploration operation subject to such terms, milestones and relinquishment requirements, as may be prescribed.
- (6) A licensee, who has adequately established the existence of mineral resources in an offshore area held under the composite licence, or part thereof, as required by the second proviso to section 6, shall, within the period specified or extended under sub-section (3), subject to such terms and conditions, and on making an application to the administering authority in such form, as may be prescribed, be granted one or more production leases:

Provided that such licensee—

- (a) is not in breach of the terms and conditions of his composite licence;
- (b) continues to be eligible for grant of a production lease in accordance with section 6; and
- (c) has applied for grant of production lease within six months of completion of his exploration operations:

Provided further that the total area of such production lease or production leases, granted in pursuance of a single composite licence, shall not exceed fifteen minutes latitude by fifteen minutes longitude.

- (7) The administering authority shall, on receipt of an application under sub-section (6), and on being satisfied that the licensee meets the requirements under the provisions of this Act and the rules made thereunder, recommend to the Central Government for grant of production lease to such licensee.
- (8) The Central Government shall, on receipt of a recommendation under sub-section (7) from the administering authority, grant production lease to the licensee in accordance with such procedure as may be prescribed.
- (9) Every production lease granted in pursuance of a composite licence shall be for a period of fifty years.
- (10) All rights and interests held under a composite licence in the parts of an offshore area, in respect of which no production lease is granted, shall cease to exist upon expiry of the composite licence.
 - (11) The provisions of this section shall not apply to—
 - (a) the areas covered under section 8; and
 - (b) the minerals specified in Part B of the First Schedule to the Mines and Minerals (Development and Regulation) Act, 1957, where the grade of atomic

mineral is equal to or greater than such threshold value, as the Central Government may, by notification in the Official Gazette, specify.

13. (1) The administering authority may, in respect of an offshore area where the existence of mineral resources has been adequately established for grant of production lease as required by the second proviso to section 6, after inviting applications in this behalf, select any person for grant of a production lease, who—

Grant of production lease.

- (a) fulfils the eligibility conditions as specified in this Act and such conditions as may be prescribed; and
- (b) is selected through auction by method of competitive bidding, including e-auction, conducted on the basis of such terms and conditions, manner and bidding parameters, as may be prescribed.
- (2) The Central Government shall grant the production lease to the applicant selected in accordance with the procedure laid down under sub-section (1).
- (3) Every production lease under this section shall be granted for a period of fifty years.
- (4) The area under a production lease shall comprise of contiguous standard blocks and shall not exceed an area of fifteen minutes latitude by fifteen minutes longitude.
- (5) Upon grant of a production lease, the lessee shall commence and carry out production operation in such manner and subject to such terms and conditions, as may be prescribed.
 - (6) The provisions of this section shall not apply to—
 - (a) the areas covered under section 8; and
 - (b) the minerals specified in Part B of the First Schedule to the Mines and Minerals (Development and Regulation) Act, 1957, where the grade of atomic mineral is equal to or greater than such threshold value, as the Central Government may, by notification in the Official Gazette, specify.".
- 11. After section 13 of the principal Act, the following sections shall be inserted, namely:—

Insertion of new sections 13A, 13B and 13C.

"13A. (*I*) Notwithstanding anything contained in section 12 or section 13, no person shall acquire in respect of any mineral or a group of associated minerals, as may be prescribed, one or more exploration licence, composite licence and production lease, all taken together and covering a total area of more than forty-five minutes latitude by forty-five minutes longitude:

Maximum area for which operating rights may be granted.

Provided that if the Central Government is of the opinion that in the interest of the development of any mineral or industry, it is necessary so to do, it may, for the reasons to be recorded in writing, increase or decrease the said area limit in respect of any mineral or any specified category of deposits of such mineral or such group of associated minerals.

- (2) For the purposes of this section, a person acquiring by, or in the name of, another person an operating right which is intended for himself, shall be deemed to be acquiring it himself.
- (3) For the purposes of determining the total area referred to in sub-section (1), the area held under an operating right by a person as a member of a co-operative society, or a company, or a corporation, or a Hindu undivided family, or a partner of a firm, shall be deducted from the area referred to in sub-section (1) so that the sum total of the area held by such person, under an operating right, whether as such member or

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partner, or individually, may not, in any case, exceed the total area specified in sub-section (1).

Transfer of composite licence or production lease.

Certain applications

exploration

licence to

ineligible.

and

13B. (1) A composite licence or a production lease granted under section 8, or through competitive bidding under section 12 or section 13, may be transferred by the relevant licensee or lessee, as the case may be, in such manner and subject to such conditions, as may be prescribed, to any person eligible for grant of such licence or lease, under the provisions of this Act:

Provided that no such transfer of a composite licence or a production lease shall be made in contravention of any conditions, subject to which such licence or lease was granted.

Explanation.—For the purposes of this sub-section, it is clarified that transfer may include one or more production leases, granted pursuant to one composite licence.

- (2) The provisions of this Act, the rules made thereunder and the terms and conditions of a composite licence or a production lease, shall be binding upon the person to whom such licence or lease, as the case may be, is transferred under sub-section (*I*).
- 13C. (1) On and from the date of commencement of the Offshore Areas Mineral (Development and Regulation) Amendment Act, 2023, auction being the sole method of selection for grant of composite licence or production lease under sections 12 and 13,—
 - (a) all applications received prior to the said date of commencement for grant of composite licence or production lease shall become ineligible;
 - (b) any exploration licence granted prior to the said date of commencement shall become ineligible for grant of production lease over the offshore area covered by such exploration licence.
- (2) The provisions of sub-section (1) shall be applicable notwithstanding anything contained in this Act, or any order or direction to the contrary, passed by any court or authority, prior to the commencement of the Offshore Areas Mineral (Development and Regulation) Amendment Act, 2023.".

Amendment of section 14.

- **12.** In section 14 of the principal Act, after clause (a), the following clause shall be inserted, namely:—
 - "(aa) composite licence one year;".

Amendment of section 16

13. In section 16 of the principal Act, in sub-section (*I*), for the words "consumed by him from the area covered under the production", the words "consumed from the area covered under his production" shall be substituted.

Insertion of new section 16A.

14. After section 16 of the principal Act, the following section shall be inserted, namely:—

Establishment of Offshore Areas Mineral Trust.

- "16A. (1) The Central Government shall, by notification in the Official Gazette, establish a Trust, as a non-profit autonomous body, to be called the Offshore Areas Mineral Trust.
- (2) The object of the Offshore Areas Mineral Trust shall be to use the funds accrued to it for the following purposes, namely:—
 - (a) research, administration, studies and related expenditure with respect to offshore areas and mitigation of any adverse impact that may be caused to the ecology in the offshore area, due to operations undertaken; or
 - (b) providing relief upon the occurrence of any disaster in the offshore area; or

- (c) the purposes of exploration in the offshore area; or
- (d) for the interest and benefit of persons affected by exploration or production operations undertaken; or
 - (e) such other purposes, as may be prescribed.
- (3) The composition and functions of the Offshore Areas Mineral Trust shall be such as may be prescribed.
- (4) The funds accrued to the Offshore Areas Mineral Trust shall be non-lapsable under the public account of India and be administered in such manner as may be prescribed.
- (5) A lessee shall pay, in addition to the royalty, to the Offshore Areas Mineral Trust, an amount which is equivalent to such percentage of the royalty paid in terms of the First Schedule, not exceeding one-third of such royalty, in such manner as may be prescribed.
- (6) The entities specified and notified under sub-section (1) of section 5 shall be eligible for funding under the Offshore Areas Mineral Trust, subject to such conditions as may be specified by the Central Government.".
- **15.** In section 17 of the principal Act, for the words "consumed by him from the area", the words "consumed from the area" shall be substituted.

Amendment of section 17.

16. For section 18 of the principal Act, the following section shall be substituted, namely:—

Substitution of new section for section 18.

"18. Every lessee shall, in addition to other payments required under this Act, pay to the Central Government in advance, the amount to be paid to the International Seabed Authority in respect of the offshore area granted under his production lease falling in such part of the continental shelf extending beyond two hundred nautical miles, from the baseline from which the breadth of the territorial sea is measured, towards fulfilment of the obligation of the Government of India under Article 82 of the United Nations Convention on the Law of the Sea, 1982.".

Contribution towards International Seabed

Authority.

17. After section 19 of the principal Act, the following section shall be inserted, namely:—

Insertion of new section 19A.

"19A. The Central Government shall take necessary steps, as may be prescribed, for the conservation and systematic development of minerals in the offshore areas and for the protection of environment by preventing or controlling any pollution which may be caused by exploration or production operations."

Duty of Central Government on mineral conservation and development.

18. In section 23 of the principal Act,—

Amendment of section 23.

- (a) in sub-section (1),—
- (i) for clauses (a) and (b), the following clauses shall be substituted, namely:—
 - "(a) whoever undertakes any reconnaissance operation, or exploration operation, or production operation in an offshore area without a reconnaissance permit, or a composite licence, or an exploration licence, or a production lease, as the case may be, shall be punishable with imprisonment for a term which may extend to five years, or with fine of five lakh rupees, which may extend to ten lakh rupees, or with both;
 - (b) any permittee or licensee or lessee, who fails to furnish the required data, or information, or document under sub-section (2) of

section 5 in the manner provided therein, shall be punishable with imprisonment which may extend to three years, or with fine of five lakh rupees, which may extend to ten lakh rupees, or with both.

Explanation.—For the purposes of clauses (*a*) and (*b*), the amount of fine provided shall be in respect of each standard block of such part of the offshore area where such reconnaissance operation, or exploration operation, or production operation is undertaken.";

(ii) in clause (d),—

- (A) for the word "punished", the word "punishable" shall be substituted:
- (*B*) for the words "with fine which may extend to fifty lakh rupees", the words "with fine of twenty-five lakh rupees, which may extend to fifty lakh rupees" shall be substituted;
- (b) in sub-section (2), in the long line, for the words "punished with imprisonment for a term which may extend to five years, or with fine which may extend to fifty thousand rupees", the words "punishable with imprisonment which may extend to five years, or with fine of two lakh rupees, which may extend to five lakh rupees" shall be substituted;
 - (c) after sub-section (2), the following sub-section shall be inserted, namely:—
 - "(2A) Whoever, having been convicted of an offence under sub-section (1) or sub-section (2), is again convicted of an offence under that sub-section, shall, in addition to the punishment provided therefor, be punishable with additional fine which may extend to one lakh rupees for each day during which he continues to commit that offence.";
 - (d) in sub-section (3),—
 - (i) the words "or the rules made thereunder" shall be omitted;
 - (ii) for the word "punished", the word "punishable" shall be substituted;
 - (iii) for the words "with fine which may extend to one crore rupees", the words "with fine of fifty lakh rupees, which may extend to one crore rupees" shall be substituted;
 - (e) after sub-section (3), the following shall be inserted, namely:—
 - "(4) Any rule made under any provision of this Act may provide that any contravention thereof shall be punishable with imprisonment for a term which may extend to five years or with fine of fifty lakh rupees, which may extend to one crore rupees, or with both, and in the case of a continuing contravention, with additional fine which may extend to five lakh rupees for every day during which such contravention continues after conviction for the first such contravention."

Amendment of section 28

19. In section 28 of the principal Act, in sub-section (*I*), in clause (*b*), for the words "one lakh rupees and which may extend to ten lakh rupees", the words "five lakh rupees and which may extend to fifty lakh rupees" shall be substituted.

Insertion of new sections 34A, 34B and 34C.

Power of revision by Central Government.

- 20. After section 34 of the principal Act, the following shall be inserted, namely:—
- "34A. The Central Government may, of its own motion and for reasons to be recorded in writing, and in accordance with such terms as may be prescribed, revise any order made by the administering authority or any officer under this Act or the rules made thereunder.

34B. Notwithstanding anything contained in this Act, the Central Government may give such directions to the administering authority, as it may deem necessary, in public interest, strategic interest of the country, conservation and development of mineral, or to carry out the provisions of this Act or the rules made thereunder.

Power of Central Government to issue directions.

Power of Central Government to call for information.

34C. The Central Government may, for the purposes of this Act, require—

- (a) the administering authority; or
- (b) a permittee or a licensee or a lessee; or
- (c) any person whom it has reason to believe to be connected with any activity in respect of minerals in the offshore area,

to furnish such information as it may deem necessary for, or relevant to, any enquiry or proceeding, under this Act.".

21. In section 35 of the principal Act, in sub-section (2),—

Amendment of section 35

- (i) after clause (a), the following clauses shall be inserted, namely:—
- "(*aa*) such other authority to whom, all exploration and operational data, reports, samples and other information in respect of or collected pursuant to an operation, is to be furnished by the lessee, licensee or permittee the manner and the period within which, they are to be furnished, under clause (*a*) of sub-section (2) of section 5;
- (ab) the terms and conditions subject to which the data, reports, samples or information is to be disseminated pursuant to a sale or otherwise under clause (b) of sub-section (2) of section 5;";
- (ii) for clause (c), the following clauses shall be substituted, namely:—
- "(c) the conditions and manner for regulating the grant of mineral concessions in respect of minerals specified in Part B of the First Schedule to the Mines and Minerals (Development and Regulation) Act, 1957 under the first proviso to section 6;
- (ca) the parameters for adequately establishing existence of mineral resources under the second proviso to section 6;";
- (iii) clauses (d) to (j) shall be omitted;
- (iv) after clause (j), the following clauses shall be inserted, namely:—
- "(ja) the terms and conditions for grant of a composite licence or a production lease to a Government company or corporation under section 8;
- (*jb*) the eligibility conditions to be fulfilled, the terms and conditions for conducting competitive bidding, the manner and bidding parameters for grant of a composite licence under sub-section (*I*) of section 12;
- (jc) the conditions subject to which extension is to be granted to the licensee for completion of the exploration operations under the first proviso to sub-section (β) of section 12;
- (*jd*) terms, milestone and relinquishment requirements for commencing and carrying out exploration operation under sub-section (5) of section 12;
- (je) the form of application to be made to the administering authority for grant of production lease under sub-section (6) and the procedure therefor under sub-section (8) of section 12;
- (jf) eligibility conditions to be fulfilled, the terms and conditions for conducting competitive bidding, the manner and bidding parameters for grant of a production lease under sub-section (I) of section 13;

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- (*jg*) the terms and conditions subject to which the production operations shall be commenced and carried out under sub-section (*5*) of section 13;
- (*jh*) the group of associated minerals to be specified under sub-section (*1*) of section 13A;
- (*ji*) the manner and the conditions for transfer of a composite licence or a production lease under section 13B;
- (*jj*) such other purposes for which the funds accrued to the Offshore Area Mineral Trust shall be used under sub-section (2) of section 16A;
- (*jk*) the composition and functions of the Offshore Area Mineral Trust under sub-section (3) of section 16A;
- (*jl*) the manner of administration of funds accrued to the Offshore Area Mineral Trust under sub-section (4) of section 16A;
- (*jm*) the manner of payment of amounts to the Offshore Area Mineral Trust under sub-section (5) of section 16A;";
- (ν) after clause (k), the following clause shall be inserted, namely:—
- "(*ka*) the steps necessary to be taken for conservation and systematic development of minerals in the offshore areas and for the protection of environment by preventing or controlling any pollution which may be caused by exploration or production operations under section 19A;";
- (vi) after clause (p), the following clause shall be inserted, namely:—
- "(pa) the measures to be taken for preventing illegal mining, transportation, and storage of minerals and for the purposes connected therewith;".

Omission of section 36.

22. Section 36 of the principal Act shall be omitted.

Amendment of Second Schedule.

23. In the Second Schedule to the principal Act, in the Table, for the entries in column (1) relating to size, the following shall be substituted, namely:—

Size

"Standard block of 1 minute longitude by 1 minute latitude.".

Removal of difficulties.

24. (*I*) If any difficulty arises in giving effect to the provisions of this Act, the Central Government may, by order, published in the Official Gazette, make such provisions not inconsistent with the provisions of the principal Act, as appear to it to be necessary or expedient for removing the difficulty:

Provided that no such order shall be made under this sub-section after the expiry of a period of two years from the commencement of this Act.

(2) Every order made under this section shall be laid, as soon as may be after it is made, before each House of Parliament.

DR. REETA VASISHTA, Secretary to the Govt. of India.

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ದಿನಾಂಕ: 11.08.2023 ರಂದು ಭಾರತ ಸರ್ಕಾರದ ಗೆಜೆಟ್ನ ವಿಶೇಷ ಸಂಚಿಕೆಯ Part-II-Section-1 ರಲ್ಲಿ ಪ್ರಕಟವಾದ THE JAN VISHWAS (AMENDMENT OF PROVISIONS) ACT, 2023 (NO. 18 OF 2023) ಅನ್ನು ಸಾರ್ವಜನಿಕರ ಮಾಹಿತಿಗಾಗಿ ಕರ್ನಾಟಕ ರಾಜ್ಯಪತ್ರದಲ್ಲಿ ಮರು ಪ್ರಕಟಿಸಲಾಗಿದೆ,-



सी.जी.-डी.एल.-अ.-12082023-248047 CG-DL-E-12082023-248047

असाधारण

EXTRAORDINARY

भाग II — खण्ड 1

PART II — Section 1

प्राधिकार से प्रकाशित

PUBLISHED BY AUTHORITY

सं॰ 21] नई दिल्ली, शुक्रवार, अगस्त 11, 2023/ श्रावण 20, 1945 (शक) No. 211 NEW DELHI, FRIDAY, AUGUST 11, 2023/SRAVANA 20, 1945 (SAKA))

इस भाग में भिन्न पृष्ठ संख्या दी जाती है जिससे कि यह अलग संकलन के रूप में रखा जा सके। Separate paging is given to this Part in order that it may be filed as a separate compilation.

MINISTRY OF LAW AND JUSTICE (Legislative Department)

New Delhi, the 11th August, 2023/Sravana 20, 1945 (Saka)

The following Act of Parliament received the assent of the President on the 11th August, 2023 and is hereby published for general information:—

THE JAN VISHWAS (AMENDMENT OF PROVISIONS) ACT, 2023

No. 18 of 2023

[11th August, 2023.]

An Act to amend certain enactments for decriminalising and rationalising offences to further enhance trust-based governance for ease of living and doing business.

BE it enacted by Parliament in the Seventy-fourth Year of the Republic of India as follows:-

1. (1) This Act may be called the Jan Vishwas (Amendment of Provisions) Act, 2023. Short title and

commencement

- (2) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint; and different dates may be appointed for amendments relating to different enactments mentioned in the Schedule.
- 2. The enactments mentioned in column (4) of the Schedule are hereby amended to the Amendment extent and in the manner mentioned in column (5) thereof.

3. The fines and penalties provided under various provisions in the enactments Revision of mentioned in the Schedule shall be increased by ten per cent. of the minimum amount of fine or penalty, as the case may be, prescribed therefor, after the expiry of every three years from the date of commencement of this Act.

fines and penalties.

of certain

enactments.

Savings.

4. The amendment or repeal by this Act of any enactment shall not affect any other enactment in which the amended or repealed enactment has been applied, incorporated or referred to;

and this Act shall not affect the validity, invalidity, effect or consequences of anything already done or suffered, or any right, title, obligation or liability already acquired, accrued or incurred or any remedy or proceeding in respect thereof, or any release or discharge of, or from any debt, penalty, obligation, liability, claim or demand, or any indemnity already granted, or the proof of any past act or thing;

nor shall this Act affect any principle or rule of law, or established jurisdiction, form or course of pleading, practice or procedure, or existing usage, custom, privilege, restriction, exemption, office or appointment, notwithstanding that the same respectively may have been in any manner affirmed, or recognised or derived by, in or from any enactment hereby amended or repealed;

nor shall the amendment or repeal by this Act of any enactment revive or restore any jurisdiction, office, custom, liability, right, title, privilege, restriction, exemption, usage, practice, procedure or other matter or thing not now existing or in force.

THE SCHEDULE

(See section 2)

Sl. No.	Year	No.	Short title	Amendments
(1)	(2)	(3)	(4)	(5)
1.	1867	25	The Press and	(A) In section 8C,—

Registration of Books Act, 1867

- (i) in sub-section (1), after the words, figure and letter "declaration under section 8B", the words, figures and letter "or an order by the Press Registrar suspending or cancelling the certificate of registration under section 12 or imposing penalties under section 13 or under section 19K" shall be inserted;
- (ii) in sub-section (2), after the words "records from the Magistrate", the words "or from the Press Registrar, as the case may be," shall be inserted.
- (B) For sections 12 to 14, the following sections shall be substituted, namely:—
 - "12. Suspension or cancellation of certificate of registration.—(1) The Press Registrar may, by order, suspend the certificate of registration of a newspaper for a period not exceeding one year, if—
 - (a) the publisher has failed to publish the newspaper continuously.

Explanation.—For the removal of doubts, it is hereby clarified that if a newspaper publishes less than half of its issues, as are required to be published under rule (6) of section 5, such newspaper shall be deemed to

have failed to publish continuously;

- (b) the publisher of a newspaper has given false particulars in the annual statement: or
- (c) the publisher of a newspaper has failed to furnish the annual statement within two years from the end of the financial year for which the annual statement was to be furnished.
- (2) The Press Registrar may, by order, cancel the certificate of registration where—
 - (i) a newspaper has ceased publication for a period exceeding twenty-four months;
 - (ii) the publisher of a newspaper fails to furnish the annual statement even after the expiry of the period during which the certificate of registration was suspended under clause (c) of sub-section (1);
 - (iii) the registration was obtained on false representation or on concealment of any material fact;
 - (iv) the title of the newspaper bears the same or similar title already held by any other owner of a newspaper either in the same language anywhere in India or in any other language in the same State or Union territory.
- (3) No order for suspension or cancellation of certificate of registration shall be made under this section, without giving a reasonable opportunity of being heard to the publisher or owner of the newspaper, as the case may be.
- (4) A copy of order of suspension or cancellation passed under this section shall be made available to the Central Government or the State Government or the Union territory administration, as the case may be, and to the Magistrate.
- 13. Penalty for certain contraventions.—The Press Registrar may impose a penalty—
 - (i) not exceeding ten thousand rupees where the publisher prints or publishes any book or paper

otherwise than in conformity with the provisions contained in section 3;

- (ii) not exceeding ten thousand rupees where the keeper of the press fails to make and subscribe the declaration in conformity with the provisions contained in section 4;
- (iii) not exceeding twenty thousand rupees where the publisher fails to furnish the annual statement as required under clause (a) of section 19D within one year from the end of the financial year in respect of which the annual statement was required to be furnished;
- (iv) not exceeding twenty thousand rupees where a person who has ceased to be a printer or publisher of any newspaper fails or neglects to make a declaration in compliance with the provisions of section 8;
- (v) not exceeding two thousand rupees for not delivering books or not supplying printer with maps referred to in section 9;
- (vi) not exceeding two thousand rupees where any printer of a newspaper neglects to deliver copies of the newspaper in compliance with the provisions of sections 11A and 11B.".
- (C) Sections 15A to 17 shall be omitted.
- (D) For section 19K, the following section shall be substituted, namely:—
 - "19K. Penalty for contravention of section 19D or section 19E.—If the publisher of any newspaper—
 - (a) refuses or neglects to comply with the provisions of clause (b) of section 19D or section 19E; or
 - (b) publishes in the newspaper in pursuance of clause (b) of section 19D any particulars relating to the newspaper which he has reason to believe to be false,

he shall be liable to penalty not exceeding ten thousand rupees.".

(E) Section 19L shall be omitted.

Sec. 1]			THE GAZETTE OF INDIA EXTRAORDINARY		
(1)	(2)	(3)	(4)	(5)	
2.	1898	6	The Indian Post Office Act, 1898	Chapter X shall be omitted.	
3.	1923	5	The Boilers Act, 1923	(A) In section 22,—	
				(a) in clause (iii), for the word and figures "section 16,", the words and figures "section 16; or" shall be substituted;	
				(b) after clause (iii), the following clause shall be inserted, namely:—	
				"(<i>iv</i>) to report an accident to a boiler or boiler component when so required under section 18,";	
				(c) in the long line, for the words "punishable with fine", the words "liable to penalty" shall be substituted.	
				(B) For section 23, the following section shall be substituted, namely:—	
				#22 D 1/: C :11 1 C	

- "23. Penalties for illegal use of boiler.—Any owner of a boiler who—
 - (a) in any case in which a certificate or provisional order is required for the use of the boiler under this Act, uses the boiler either without any such certificate or order being in force or at a higher pressure than that allowed thereby; or
 - (b) uses or permits to be used a boiler which has been transferred from one State to another without such transfer having been reported as required under clause (b) of section 6; or
 - (c) fails to cause the register number allotted to the boiler under this Act to be permanently marked on the boiler as required under sub-section (6) of section 7,

shall be liable to penalty which may extend to one lakh rupees, and in the case of a continuing contravention or failure, with an additional penalty which may extend to one thousand rupees for every day during which such contravention or failure continues.".

- (C) In section 24, clauses (a), (b) and (d) shall be omitted.
- (D) In section 25, in sub-section (I), for the words "punishable with fine", the words "liable to penalty" shall be substituted.
- (E) After section 26, the following sections shall be inserted, namely:-

"26A. Adjudication.—(1) The State Government or the Union territory

administration, as the case may be, for the purposes of determining the penalties under sections 22, 23, sub-section (*I*) of section 25 and section 30, may authorise the District Magistrate or the Additional District Magistrate, as the case may be, having jurisdiction, to be the adjudicating officer to hold an inquiry and impose penalty, in the manner as may be prescribed by the State Government or the Central Government, as the case may be.

(2) The adjudicating officer may summon and enforce the attendance of any person acquainted with the facts and circumstances of the case to give evidence or to produce any document, which in the opinion of the adjudicating officer, may be useful for, or relevant to, the subject-matter of the inquiry, and if, on such inquiry, he is satisfied that the person concerned has failed to comply with the provisions of sections 22, 23, sub-section (1) of section 25 and section 30, he may impose penalty:

Provided that no such penalty shall be imposed without giving the person concerned a reasonable opportunity of being heard.

- 26B. Appeal.—(1) Whoever aggrieved by the order, passed by the adjudicating officer under section 26A, may prefer an appeal to an officer not below the rank of Secretary to the State Government or the Union territory administration, as the case may be, to be an appellate authority, specially authorised by that Government or administration in this behalf, within sixty days from the date of receipt of order, in such form and manner as may be prescribed by the State Government or the Central Government, as the case may be.
- (2) An appeal may be admitted after the expiry of the period of sixty days if the appellant satisfies the appellate authority that he had sufficient cause for not preferring the appeal within that period.
- (3) The appellate authority may, after giving the parties to the appeal an opportunity of being heard, pass such order as he may think fit.
- (4) An appeal under sub-section (1) shall be disposed of within sixty days from the date of filing.".

- (F) In section 27, the words "Presidency Magistrate or a" shall be omitted.
- (G) In section 28A, in sub-section (1A), after clause (c), the following clauses shall be inserted, namely:—
 - "(ca) the manner of holding inquiry and imposing penalty under sub-section (1) of section 26A;
 - (cb) the form and manner of preferring appeal under sub-section (I) of section 26B;".
- (H) In section 29, in sub-section (I), after clause (h), the following clauses shall be inserted, namely:—
 - "(ha) the manner of holding inquiry and imposing penalty under sub-section (1) of section 26A;
 - (hb) the form and manner of preferring appeal under sub-section (I) of section 26B;".

(I) In section 30,—

- (i) for the words "punishable, in the case of a first offence, with fine", the words "liable to penalty, in the case of a first contravention, with penalty" shall be substituted;
- (ii) for the words "subsequent offence, with fine", the words "subsequent contravention, with penalty" shall be substituted.

(A) In section 26,—

- (i) in sub-section (1), clauses (d) and (e) shall be omitted;
- (*ii*) after sub-section (*1*), the following sub-section shall be inserted, namely:—
 - "(1A) Any person who, in a reserved forest—
 - (a) trespasses or pastures cattle, or permits cattle to trespass shall be liable to penalty which may extend to five hundred rupees, in addition to such compensation for damage done to the forest as determined by a Forest-officer empowered under section 68;
 - (b) causes any damage by negligence in felling any tree

4. 1927 16 The Indian Forest Act, 1927

or cutting or dragging any timber shall be liable to penalty which may extend to five thousand rupees, in addition to such compensation for damage done to the forest as determined by a Forest-officer empowered under section 68.".

(B) In section 33,—

- (i) in sub-section (1), clauses (e), (f) and (g) shall be omitted;
- (ii) after sub-section (1), the following sub-section shall be inserted, namely:—
 - "(1A) Any person who in a protected forest—
 - (a) leaves burning any fire kindled by him in the vicinity of any tree reserved under section 30, whether standing, fallen or felled, or closed portion of any protected forest;
 - (b) fells any tree or drags any timber so as to damage any tree reserved as aforesaid,

shall be liable to penalty which may extend to five thousand rupees in addition to such compensation for damage done to the forest as determined by a Forest-officer empowered under section 68.".

(C) In section 68,—

(i) for the marginal heading, the following marginal heading shall be substituted, namely:—

"Power to compound offences and impose penalties.";

- (ii) in sub-section (1)—
- (I) in clause (a), for the word ", and", the word "; or" shall be substituted;
- (II) after clause (a), the following clause shall be inserted, namely:—

"(aa) to accept from any person a sum of money by way

of penalty or compensation for violation of sub-section (*IA*) of section 26 or sub-section (*IA*) of section 33; and".

5. 1937 1 The Agricultural Produce (Grading and Marking)
Act, 1937

The Agricultural (A) In section 3, in sub-section (2), after Produce (Grading and Marking) (a) In section 3, in sub-section (2), after clause (g), the following clauses shall be inserted, namely:—

"(ga) holding inquiry and imposing penalty under sub-section (1) of section 5C;

- (gb) preferring appeal under sub-section (1) of section 5D;".
- (B) In section 4, for the words "punishable with imprisonment for a term not exceeding six months and fine not exceeding five thousand rupees", the words "liable to penalty not exceeding five lakh rupees" shall be substituted.
- (C) In section 5, for the words "punishable with imprisonment for a term not exceeding three years and fine not exceeding five thousand rupees", the words "liable to penalty not exceeding fifteen lakh rupees" shall be substituted.
- (D) In section 5A, for the words "punishable with imprisonment for a term not exceeding six months and fine not exceeding five thousand rupees", the words "liable to penalty not exceeding three lakh rupees" shall be substituted.
- (E) In section 5B, in sub-section (4), for the words "punishable with imprisonment for a term not exceeding six months and fine not exceeding five thousand rupees", the words "liable to penalty not exceeding five lakh rupees" shall be substituted.
- (*F*) For section 5C, the following sections shall be substituted, namely:—
 - "5C. Adjudicating officer.—
 (1) The Central Government may, for the purposes of determining the penalties under sections 4, 5, 5A and 5B, appoint an officer not below the rank of Deputy Secretary to the Government of India or an officer not below the rank of Deputy Secretary to the State Government, to be adjudicating officer to hold an inquiry and impose penalty, in the manner as may be prescribed:

Provided that the Central Government may appoint as many adjudicating officers as may be required.

(2) The adjudicating officer may summon and enforce the attendance of any person acquainted with the facts and circumstances of the case to give evidence or to produce any document, which in the opinion of the adjudicating officer, may be useful for, or relevant to, the subject-matter of the inquiry and if, on such inquiry, he is satisfied that the person concerned has failed to comply with the provisions of sections 4, 5, 5A and 5B, he may impose penalty:

Provided that no such penalty shall be imposed without giving the person concerned a reasonable opportunity of being heard in the matter.

- 5D. Appeal.—(1) Whoever aggrieved by the order, passed by the adjudicating officer under section 5C may prefer an appeal to the Agricultural Marketing Adviser, Government of India within thirty days from the date of receipt of order in such manner as may be prescribed.
- (2) An appeal may be admitted after the expiry of the period of thirty days if the appellant satisfies the Agricultural Marketing Adviser that he had sufficient cause for not preferring the appeal within that period.
- (3) The Agricultural Marketing Adviser may, after giving the parties to the appeal an opportunity of being heard, pass such order as he may think fit.
- (4) The Agricultural Marketing Adviser referred to in sub-section (I) shall dispose of the appeal within sixty days from the date of filing.
- 5E. Recovery.—Notwithstanding anything contained in this Act, if penalty imposed by the adjudicating officer under section 5C or order of the Agricultural Marketing Adviser under section 5D, as the case may be, is not deposited, the amount shall be recovered as an arrear of land revenue."

(1)	(2)	(3)	(4)	(5)
6.	1940	23	The Drugs and Cosmetics Act, 1940	(A) In section 29, for the words "punishable with fine which may extend to five thousand rupees", the words "liable to penalty which may extend to one lakh rupees" shall be substituted.
				(B) In section 30, in sub-section (2), for the words "imprisonment which may extend to two years, or with fine which shall not be less than ten thousand rupees, or with both", the words "fine which shall not be less than five lakh rupees" shall be substituted.
				(C) In section 32B, in sub-section (1), after the words and figures "of section 13,", the words, brackets, letters and figures "clause (d) of section 27 and clause (ii) of section 27A," shall be inserted.
7.	1944	18	The Public Debt Act, 1944	Section 27 shall be omitted.
8.	1947	24	The Rubber Act, 1947	(A) In section 11, in sub-section (3), for the words "imprisonment for a term which may extend to one year or with fine or with both", the words and figures "penalty which may extend to one lakh rupees or cancellation of licence issued under section 14, or with both" shall be substituted.
				(B) In section 13, sub-section (3) shall be omitted.
				(C) In section 25, in sub-section (2), after clause (xxiii), the following clauses shall be inserted, namely:—
				"($xxiiia$) the manner of holding inquiry and imposing penalty under sub-section (I) of section 26B;
				(xxiiib) the form and manner of preferring appeal under sub-section (2) of section 26B;".
				(D) In section 26, in sub-section (1), in the long line, for the words "punishable with

(E) After section 26A, the following section shall be inserted, namely:—

rupees" shall be substituted.

imprisonment for a term which may extend to one year, or with fine which may extend to five thousand rupees, or with both", the words "liable to penalty which may extend to fifty thousand

"26B. Adjudication of penalties.—(1) For the purposes of adjudging the penalties under sub-section (3) of section 11 and section 26, the Executive Director shall appoint the Secretary to the Board or any other officer authorised by the Central Government, as the case may be, to be an adjudicating officer for holding an inquiry

and imposing penalty in the manner as may be prescribed, after giving any person concerned a reasonable opportunity of being heard.

- (2) Whoever is aggrieved by any order of the adjudicating officer may prefer an appeal to the Executive Director, within a period of sixty days from the date of receipt of such order in such form and manner as may be prescribed.
- (3) An appeal may be admitted after the expiry of the period of sixty days if the appellant satisfies the Executive Director that he had sufficient cause for not preferring the appeal within that period.
- (4) No appeal shall be disposed of unless the appellant has been given a reasonable opportunity of being heard.
- (5) An appeal under sub-section (2) shall be disposed of within sixty days from the date of filing.
- (6) The amount of penalty imposed under sub-section (1), if not paid, may be recovered as an arrear of land revenue.".
- (A) In section 18, in sub-section (2), after clause (h), the following clauses shall be inserted, namely:—
 - "(*i*) the manner of holding inquiry and imposing penalty under sub-section (*I*) of section 43A;
 - (j) the form and manner of preferring appeal under sub-section (2) of section 43A.".
- (B) In section 26A, in sub-section (3), for the words "punishable with imprisonment for a term which may extend to six months, or with fine not exceeding one thousand rupees, or with both", the words "liable to penalty which may extend to one lakh rupees" shall be substituted.
- (C) In section 41, for sub-section (1), the following sub-section shall be substituted, namely:—
 - "(1) If any person whose name is not for the time being entered in the register of the State falsely pretends that it is so entered or uses in connection with his name or title any words or letters reasonably calculated to suggest that his name is so entered, he shall be punishable on first conviction with fine which may extend to one lakh rupees and on subsequent conviction with imprisonment which may extend to three

9. 1948 8 The Pharmacy Act, 1948

months or with fine not exceeding two lakh rupees, or with both:

Provided that it shall be a defence if the name of the person is entered in the register of another State and that at the time of claim, an application for registration in the State had been made.".

- (D) In section 42, in sub-section (2), for the words "imprisonment for a term which may extend to six months, or with fine not exceeding one thousand rupees or with both", the words "imprisonment for a term which may extend to three months, or with fine which may extend to two lakh rupees, or with both" shall be substituted.
- (*E*) After section 43, the following section shall be inserted, namely:—
 - "43A. Adjudication of penalties.—(I) For the purposes of adjudging the penalties under section 26A, the Central Government shall authorise the President of the State Council, where the alleged violation is committed, to be the adjudicating officer for holding an inquiry and impose penalty in the manner as may be prescribed under section 18, after giving any person concerned a reasonable opportunity of being heard.
 - (2) Whoever is aggrieved by any order of the adjudicating officer may prefer an appeal to the President, Central Council, within a period of forty-five days from the date of receipt of such order in such form and manner as may be prescribed under section 18.
 - (3) The President, Central Council may entertain an appeal after the expiry of forty-five days, if it is satisfied that the appellant was prevented from sufficient cause for filing the appeal within the said period.
 - (4) No appeal shall be disposed of unless the appellant has been given a reasonable opportunity of being heard.
 - (5) An appeal under sub-section (2) shall be disposed of within ninety days from the date of filing.
 - (6) The amount of penalty imposed under sub-section (1), if not paid, may be recovered as an arrear of land revenue.".

(1)	(2)	(3)	(4)	(5)
10.	1951	65	The Industries	(A) In section 24, in sub-section (1), for the
			(Development	long line, the following long line shall be
			and Regulation)	substituted, namely:—
			Act, 1951	"he shall be liable to negalty which

"he shall be liable to penalty which may extend to twenty-five lakh rupees.".

- (*B*) For section 24A, the following sections shall be substituted, namely:—
 - "24A. Adjudication.—(1) The Central Government, for the purposes of determining the penalties under section 24, shall authorise the District Magistrate or the Additional District Magistrate, having jurisdiction, to be the adjudicating officer, to hold an inquiry and impose penalty in the manner, as may be prescribed.
 - (2) The adjudicating officer may summon and enforce the attendance of any person acquainted with the facts and circumstances of the case to give evidence or to produce any document, which in the opinion of the adjudicating officer, may be useful for, or relevant to, the subject-matter of the inquiry and if, on such inquiry, he is satisfied that the person concerned has failed to comply with the provisions of this Act, he may impose such penalty as he thinks fit in accordance with the provisions of section 24:

Provided that no such penalty shall be imposed without giving the person concerned a reasonable opportunity of being heard.

- 24B. Appeal.—(1) Whoever aggrieved by the order, passed by the adjudicating officer under section 24A, may prefer an appeal to an officer not below the rank of Joint Secretary to the Government of India, to be an appellate authority, within thirty days from the date of receipt of order, in such form and manner as may be prescribed.
- (2) An appeal may be admitted after the expiry of the period of thirty days if the appellant satisfies the appellate authority that he had sufficient cause for not preferring the appeal within that period.
- (3) The appellate authority may, after giving the parties to the appeal an opportunity of being heard, pass such order as he may think fit.

- (4) An appeal under sub-section (1) shall be disposed of within sixty days from the date of filing.
- 24C. Recovery.—Notwithstanding anything contained in this Act, if penalty imposed by the adjudicating officer under section 24A or order of the appellate authority under section 24B, as the case may be, is not deposited, the amount shall be recovered as an arrear of land revenue.".
- (C) Section 27 shall be omitted.
- (D) In section 28, for the word "prosecuted", the words "imposed penalty" shall be substituted.
 - (E) Sections 29 and 29A shall be omitted.
 - (F) In section 30,—
 - (i) in sub-section (2), after clause (pp), the following clauses shall be inserted, namely:—
 - "(*ppa*) the manner of holding inquiry and imposing penalty under sub-section (*I*) of section 24A;
 - (ppb) the form and manner of preferring appeal under sub-section (1) of section 24B;";
 - (*ii*) in sub-section (*3*), for the word "punishable", the words "liable to penalty" shall be substituted.
- 11. 1952 37 The Cinematograph Act, 1952
- (A) In section 7,—
- (i) for sub-section (1), the following sub-section shall be substituted, namely:—
 - '(1) If any person—
 - (a) without lawful authority (the burden of proving which shall be on such person) alters or tampers in any way any film after it has been certified, he shall be punishable with imprisonment for a term which may extend to three years or with fine which shall not be less than ten lakh rupees, or with both;
 - (b) exhibits or permits to be exhibited in any place, any film—

- (i) which has not been certified by the Board:
- (ii) which, when exhibited does not display the prescribed mark of the Board;
- (iii) which, when exhibited displays a mark of the Board which has since been altered or tampered with, after the mark has been affixed.

he shall be punishable with imprisonment for a term which may extend to three years or with fine which may extend to ten lakh rupees, or with both and in the case of a continuing offence with a further fine which may extend to one lakh rupees for each day during which the offence continues;

- (c) exhibits or permits to be exhibited in any place, a video film in contravention of the provisions of clause (a) or clause (b), he shall be punishable with imprisonment for a term which may extend to three years or with fine which may extend to ten lakh rupees, or with both, and in the case of a continuing offence with a further fine which may extend to one lakh rupees for each day during which the offence continues;
- (d) exhibits or permits to be exhibited any film, which has been certified by the Board as "A" within the meaning of this Act to any minor, such person shall be liable to penalty not exceeding ten thousand rupees per person for every such exhibition, levied by the authorised officer in such manner as may be prescribed;
- (e) exhibits or permits to be exhibited any film, which has been certified by the Board as "S" within the meaning of this

Act, to a person who is not a member of such profession or class, shall be liable to penalty not exceeding ten thousand rupees per person for every such exhibition, levied by the authorised officer in such manner as may be prescribed;

(f) fails to comply with the provisions contained in section 6A or with any order made by the Central Government or by the Board in the exercise of any of the powers or functions conferred on it by this Act or the rules made thereunder, he shall be liable to penalty not exceeding five lakh rupees, levied by the authorised officer and in such manner as may be prescribed:

Provided notwithstanding anything contained in section 29 of the Code of Criminal Procedure, 1973 (2 of 1974), it shall be lawful any Metropolitan Magistrate, or any Judicial Magistrate of the First Class specially empowered by the State Government in this behalf, to pass a sentence of fine exceeding five thousand rupees on any person convicted of any offence punishable under this Part under clauses (a) to (c):

Provided further that no distributor or exhibitor or owner or employee of a cinema house shall be liable to punishment for contravention of any condition of endorsement of caution that has been certified as "UA" under this Part.';

(ii) after sub-section (3), the following sub-section shall be inserted, namely:—

"(4) Whoever aggrieved by any penalty imposed under clauses (d) to (f) of sub-section (1) or section 14, may prefer an appeal to such appellate authority within such period and in such form and manner as may be prescribed."

(B) In section 8, in sub-section (2), after clause (cb), the following clauses shall be inserted, namely:—

"(cc) the authorised officer and the manner of levy of penalty by him in terms of clauses (d) to (f) of sub-section (I) of section 7;

(cd) the period, form and manner of preferring appeal and appellate authority under sub-section (4) of section 7;".

(C) In section 14, for the words "punishable with fine which may extend to one thousand rupees and, in the case of a continuing offence, with a further fine which may extend to one hundred rupees for each day during which the offence continues", the words "liable to penalty of one lakh rupees and, in the case of a continuing contravention, with a further penalty which may extend to ten thousand rupees for each day during which the contravention continues" shall be substituted.

(D) For section 15, the following section shall be substituted, namely:—

"15. Power to revoke or suspend licence.—(I) Where the holder of a licence has been convicted of an offence under clauses (a) to (c) of sub-section (I) of section 7, the licence may be revoked by the licensing authority.

(2) Where the holder of a licence has been imposed penalty for contravention under clauses (d) to (f) of sub-section (1) of section 7 or section 14, the licence may be suspended by the licensing authority for a period not exceeding thirty days:

Provided that in cases of more than three contraventions over a period of three years, the licensing authority, may, for the reasons to be recorded in writing, by order, revoke the licence:

Provided further that no order under this section shall be made without giving the holder of the licence a reasonable opportunity of being heard.".

- (A) Sections 38 to 40 shall be omitted.
- (B) In section 41, in sub-section (1), for the words "punishable with imprisonment for a term which may extend to six months, or with fine which may extend to five thousand rupees, or with both,", the words "liable to penalty which may extend to fifty thousand rupees" shall be substituted.
- (C) In section 42, for the words "punishable with imprisonment which may extend to six months, or with fine which may extend to five thousand rupees, or with both, and in the case of a continuing

12. 1953 29 The Tea Act, 1953

(1) (2) (3) (4)

contravention with an additional fine which may extend to five hundred rupees for every day during which such contravention continues after conviction for the first such contravention", the words "liable to penalty which may extend to fifty thousand rupees and for subsequent contravention, penalty which may extend to one lakh rupees" shall be substituted.

- (D) After section 42, the following section shall be inserted, namely:—
 - "42A. Adjudication of penalties.—(I) For the purposes of adjudging the penalties under sub-section (I) of section 41 and section 42, the Deputy Chairman of the Board shall appoint the Secretary to the Board or any other officer authorised by the Central Government, as the case may be, to be an adjudicating officer for holding an inquiry and imposing penalty in the manner as may be prescribed, after giving a reasonable opportunity of being heard.
 - (2) Whoever is aggrieved by any order of the adjudicating officer may prefer an appeal to the Deputy Chairman of the Board, within a period of sixty days from the date of receipt of such order in such form and manner as may be prescribed.
 - (3) An appeal may be admitted after the expiry of the period of sixty days if the appellant satisfies the Deputy Chairman that he had sufficient cause for not preferring the appeal within that period.
 - (4) No appeal shall be disposed of unless the appellant has been given a reasonable opportunity of being heard.
 - (5) An appeal under sub-section (2) shall be disposed of within sixty days from the date of filing.
 - (6) The amount of penalty imposed under sub-section (1), if not paid, may be recovered as an arrear of land revenue."
- (E) In section 49, in sub-section (2), after clause (x), the following clauses shall be inserted, namely:—
 - "(xa) the manner of holding inquiry and imposing penalty under sub-section (I) of section 42A;

(1)	(2)	(3)	(4)			(5)	
							nanner of preferring ion (2) of section
13.	1957	14	The Copyright Act, 1957		Section 68	shall be omit	ted.
14.	1958	44	The Merchant		(A) In sect	ion 436,—	
			Shipping Act, 1958		against the column 1, column 2, column 3 a shall, resp	e serial number in respect of , relating to the and the penalti	n (2), in the Table, rs mentioned under the offences under the sections under es under column 4, substituted, in the nely:—
				Serial No.	Offences	s Section of this Act to which offence has reference	Penalties
				1	2	3	4
				16			"Penalty which may extend to two lakh rupees."
				29			"Penalty which may extend to two lakh rupees."
				35			"Penalty which may extend to two lakh rupees."
				43			"Penalty which may extend to two lakh rupees."
				44			"Penalty which may extend to fifty thousand rupees."
				57(a)			"He shall be liable to forfeit all or any part of the property he leaves on board and of the wages he has then earned and also if the

(1) (2) (3) (4)

desertion takes place at any place not in India, to forfeit all or any part of the wages which he may earn in any other ship in which he may be employed until his next return to India, and to satisfy any excess of wages paid by the master or owner of the ship from which he deserts to any substitute engaged in his place at a higher rate of wages than the rate stipulated to be paid to him."

57(b)

"he shall, if the contravention does not amount to desertion, be liable to forfeit out of his wages a sum not exceeding two days' pay and in addition for every twenty-four hours of absence either a sum not exceeding six days' pay or any expense

(1)	(2)	(3)	(4)		(5)	
						properly incurred in hiring a substitute."
				59	(iv) 194(d) clause (d) of section 194	"imprisonment which may extend to three months, or fine which may extend to five hundred rupees, or both;"
					(iva) 194(e) clause (e) of section 194	"imprisonment which may extend to one month, and also for every twenty-four hours of such disobedience or neglect, forfeiture out of his wages of a sum not exceeding six days' pay or any expenses, which may have been properly incurred in hiring a substitute."
				60		"Penalty which may extend to one lakh rupees."
				65		"Penalty which may extend to two lakh rupees."
				66(a)		"Penalty which may extend to two lakh rupees."
				68		"Penalty which may extend to fifty thousand rupees."
				72		"Penalty which may extend to two lakh rupees."
				84		"Penalty which may extend to

(1)	(2)	(3)	(4)		(5)	
						one lakh rupees for the first offence and five lakh rupees for every subsequent offence."
				108B		"The master or owner or agent shall be liable to penalty which may extend to five lakh rupees and the ship may also be detained."
				109		"Penalty which may extend to five lakh rupees."
				115D (ii)		"the offender shall be liable to penalty whic may extend to fifty thousand rupees."
				133		"Penalty which may extend to one lakh rupee and the vessel may also be detained."
				135		"Penalty which may extend to fifty thousand rupees."
				137		"Penalty which may extend to one lakh rupee and the vessel may also be detained."
				137Ј		"Penalty which may extend to one lakh rupee and the vessel may also be detained.";

(1) (4) (2)(3) (5)

- (b) after sub-section (2), the following sub-sections shall be inserted, namely:-
- "(3) The penalty prescribed for the contravention of any provision of this Act shall be imposed by the Principal Officer of the Mercantile Marine Department:

Provided that no penalty under this section shall be imposed unless the parties have been given a reasonable opportunity of being heard.

- (4) Whoever aggrieved by an order of the Principal Officer under sub-section (3), may, within a period of thirty days from the date of receipt of such order, prefer an appeal before the Director-General in such form and manner as the Central Government may prescribe.
- (5) The Director-General may, after giving the parties an opportunity of being heard, within a period of thirty days from the date of receipt of the appeal under sub-section (4), pass appropriate order.
- (6) Any contravention of the provisions of this Act for which penalty has been prescribed may be compounded for the first contravention by the Principal Officer referred to in sub-section (3) or such other Officer as may be notified by the Central Government in the Official Gazette in this behalf:

Provided that where any such contravention has been compounded, the sum shall not, in any case, exceed the maximum amount of the penalty which may be imposed for such contravention.

- (7) Notwithstanding anything contained in this Act, if penalty imposed by the Principal Officer of the Mercantile Marine Department under sub-section (3) or order of the Director-General under sub-section (5), as the case may be, is not deposited, the amount shall be recovered as an arrear of land revenue.".
- (B) After section 436, the following section shall be inserted, namely:-
- "436A. Power to make rules.—The Central Government may, subject to the condition of previous publication, make rules prescribing the form and manner of appeal against the order of Principal Officer of the Mercantile Marine Department under sub-section (4) of section 436.".

In section 47, for sub-section (2), the following sub-sections shall be substituted, namely:—

1961 47 The Deposit Insurance and Credit Guarantee

Corporation Act, 1961

"(2) If any person fails to produce any book, account or other document or to furnish any statement or information which, under the provisions of this Act, it is his duty to produce or furnish, he shall be liable to penalty which may extend to one lakh fifty thousand rupees in respect of each failure, and in the case of a continuing failure, with an additional penalty which may extend to seven thousand five hundred rupees for every day during which the failure continues after the first such failure.

- (3) For the purpose of adjudging the penalty under sub-section (2), the Corporation shall serve notice on the person requiring it to show cause why the amount specified in the notice should not be imposed and a reasonable opportunity of being heard shall also be given to such person.
- (4) Any penalty imposed by the Corporation under this section shall be payable within a period of fourteen days from the date on which notice issued by the Corporation demanding payment of the sum is served on the person and in the event of failure of the person to pay the sum within such period, may be levied on an order or direction made by the principal civil court having jurisdiction in the area where the person is situated:

Provided that no order or direction shall be made except on an application made to the court by the Corporation or any officer authorised by it in this behalf.

- (5) The court which makes an order or direction under sub-section (4) shall issue a certificate specifying the sum payable by the person and every such certificate shall be enforceable in the same manner as if it were a decree made by the court in a civil suit.
- (6) No complaint shall be filed against any person in any court of law in respect of any contravention or default in respect of which any penalty has been imposed by the Corporation under sub-section (2).
- (7) Where any complaint has been filed against any person in any court in respect of any contravention or default of the nature referred to in sub-section (1), then, no proceedings for the imposition of any penalty on the person shall be initiated under sub-section (2)."

16. 1962 58 The Warehousing Corporations
 Act, 1962
 17. 1964 37 The Food Corporations
 Section 38 shall be omitted.
 Section 41 shall be omitted.

Act, 1964

10	1070	20	TI D	(A) T
(1)	(2)	(3)	(4)	(5)

18. 1970 39 The Patents Act, 1970

(A) In section 120, for the words "he shall be punishable with fine which may extend to one lakh rupees", the words "he shall be liable to penalty which may extend to ten lakh rupees, and in case of the continuing claim, a further penalty of one thousand rupees for every day after the first during which such claim continues" shall be substituted.

- (B) Section 121 shall be omitted.
- (C) In section 122,—
- (i) in sub-section (1), for the long line, the following long line shall be substituted, namely:—

"he shall be liable to penalty which may extend to one lakh rupees, and in case of the continuing refusal or failure, a further penalty of one thousand rupees for every day after the first during which such refusal or failure continues.";

- (ii) in sub-section (2), for the words, "he shall be punishable with imprisonment which may extend to six months, or with fine, or with both", the words "he shall be liable to penalty for a sum equal to one half per cent. of the total sale or turnover, as the case may be, of business or of the gross receipts in profession as computed in the audited accounts of such person, or a sum equal to five crore rupees, whichever is less" shall be substituted.
- (D) In section 123, for the words "he shall be punishable with fine which may extend to one lakh rupees in the case of a first offence and five lakh rupees in case of a second or subsequent offence", the words "he shall be liable to penalty, which may extend to five lakh rupees, and in case of the continuing default, a further penalty of one thousand rupees for every day after the first during which such default continues" shall be substituted.
- (E) After section 124, the following sections shall be inserted, namely:—

"124A. Adjudication of penalties.— The Controller may, by an order, authorise an officer referred to in section 73, to be the adjudicating officer for holding an inquiry and imposing penalty under the provisions of this Act, in the manner as may be prescribed, after giving the person

concerned a reasonable opportunity of being heard.

124B. Appeal.—(1) Whoever aggrieved by an order of the adjudicating officer under section 124A may prefer an appeal to the appellate authority, who shall be an officer at least one rank above the adjudicating officer, within a period of sixty days from the date of receipt of the order, as the Central Government may by notification authorise in this behalf.

- (2) Every appeal under this section shall be preferred in such form and manner as may be prescribed.
- (3) An appeal may be admitted after the expiry of the period of sixty days if the appellant satisfies the appellate authority that he had sufficient cause for not preferring the appeal within that period.
- (4) No appeal shall be disposed of unless the appellant has been given a reasonable opportunity of being heard.
- (5) The appellate authority referred to in sub-section (I) shall dispose of the appeal within sixty days from the date of filing the appeal.
- (6) Notwithstanding anything contained in this Act, if the person fails to comply with the order of the adjudicating officer under section 124A or the order of the appellate authority under this section, as the case may be, within ninety days of such order, he shall, in addition to the penalty, be punishable with fine of one lakh rupees or imprisonment for a term which may extend to one year, or with both."
- (*F*) In section 159, in sub-section (2), after clause (*xiii*), the following clauses shall be inserted, namely:—

"(xiiia) the manner of holding inquiry and imposing penalty under section 124A;

(xiiib) the form and manner of preferring appeal under sub-section (2) of section 124B;".

19.

(1)	(2)	(3)	(4)	(5)

1972 13 The Marine
Products Export
Development
Authority
Act, 1972

- (A) In section 20, in sub-section (3), for the words "be punishable with imprisonment for a term which may extend to one year, or with fine, or with both", the words "be liable to penalty not less than ten thousand rupees or not exceeding twice the value of goods, whichever is higher, in respect of which such order has been made" shall be substituted.
- (B) In section 23, for the words "be punishable with fine which may extend to five hundred rupees", the words "be liable to penalty which may extend to ten thousand rupees" shall be substituted.
- (C) For sections 24 and 25, the following sections shall be substituted, namely:—
 - "24. Penalties for obstructing a member or officer of Authority in discharge of his duties and for failure to produce books and records.— Any person who—
 - (a) obstructs any member authorised by the Chairman in writing or any officer or other employee of the Authority authorised by it in this behalf or any person authorised in this behalf by the Central Government or by the Authority, in the exercise of any power conferred, or in the discharge of any duty imposed, on him by or under this Act, shall be punishable with imprisonment for a term which may extend to six months, or with fine which may extend to one thousand rupees, or with both;
 - (b) having control over or custody of any account book or other record, fails to produce such book or record when required to do so by or under this Act, shall be liable to penalty which may extend to ten thousand rupees.
 - 25. Other penalties.—Whoever contravenes or attempts to contravene or abets the contravention of the provisions of this Act or of any rules made thereunder other than the provisions, punishment or penalty for the contravention whereof has been provided for in sections 20, 23 and 24 shall be liable to penalty not less than ten thousand rupees, or not exceeding an amount equivalent to the value of goods, whichever is higher, in respect of which such contravention has been made, and in case of a continuing contravention as aforesaid, a penalty of not less than fifty thousand rupees, or not exceeding an

amount equivalent to twice the value of goods, whichever is higher, in respect of which such contravention has been made.

- 25A. Adjudication of penalties.—
 (1) For the purposes of adjudging penalties under sub-section (3) of section 20, section 23, clause (b) of section 24 and section 25, the Chairman shall appoint the Secretary to the Authority or any other officer authorised by the Central Government, as the case may be, to be an adjudicating officer for holding an inquiry and imposing penalty under the provisions of this Act, in the manner as may be prescribed, after giving the person concerned a reasonable opportunity of being heard.
- (2) Whoever is aggrieved by an order of the adjudicating officer may prefer an appeal to the Chairman, within a period of sixty days from the date of receipt of such order in such form and manner as may be prescribed.
- (3) An appeal may be admitted after the expiry of the period of sixty days if the appellant satisfies the Chairman that he had sufficient cause for not preferring the appeal within that period.
- (4) No appeal shall be disposed of unless the appellant has been given a reasonable opportunity of being heard.
- (5) The appellate authority referred to in sub-section (2) shall dispose of the appeal within sixty days from the date of filing.
- (6) The amount of penalty imposed under sub-section (I), if not paid, shall be recovered as an arrear of land revenue.".
- (D) In section 33, in sub-section (2), after clause (q), the following clauses shall be inserted, namely:—
 - "(qa) the manner of holding inquiry and imposing penalty under sub-section (1) of section 25A;
 - (qb) the form and manner of preferring appeal under sub-section (2) of section 25A;".

20. 1978 11 The High
Denomination
Banknotes
(Demonetisation)
Act, 1978

Repealed.

(1)	(2)	(3)	(4)	(5)

21. 1981 14 The Air (Prevention and Control of Pollution) Act, 1981

(A) In section 21, for sub-section (I), the following shall be substituted, namely:—

"(1) No person shall establish or operate any industrial plant in an air pollution control area unless the previous consent of the State Board has been obtained in pursuance of an application made by such person in accordance with the provisions of this section:

Provided that the Central Government may in consultation with the Central Pollution Control Board, by notification in the Official Gazette, exempt certain categories of industrial plants from the application of the provisions of this sub-section."

- (*B*) After section 21, the following section shall be inserted, namely:—
 - "21A. Power to issue guidelines.—(1) Notwithstanding anything contained in this Act, the Central Government in consultation with the Central Board, may, by notification in the Official Gazette, issue guidelines on the matters relating to the grant, refusal or cancellation of consent by any State Board to establish or operate any industrial plant in an air pollution control area, including the mechanism for time bound disposal of the application made under section 21 or validity period of such consent.
 - (2) Every State Board, in discharge of its functions for the purposes of grant, refusal or cancellation of consent under section 21 shall act in accordance with the guidelines issued under sub-section (1).".
- (C) For sections 37 to 41, the following sections shall be substituted, namely:—
 - '37. Failure to comply with provisions of section 22 or directions issued under section 31A.—(I) Whoever contravenes or does not comply with the provisions of section 22 or directions issued under section 31A, shall, in respect of each such contravention, be liable to penalty which shall not be less than ten thousand rupees, but which may extend to fifteen lakh rupees.
 - (2) Where any person continues contravention under sub-section (*I*), he shall be liable to additional penalty of ten thousand rupees for every day during which such contravention continues.

38. Penalties for certain acts.—(1) Whoever—

- (a) destroys, pulls down, removes, injures or defaces any pillar, post or stake fixed in the ground or any notice or other matter put up, inscribed or placed, by or under the authority of the Board;
- (b) obstructs any person acting under the orders or directions of the Board from exercising his powers and performing his functions under this Act;
- (c) damages any works or property belonging to the Board;
- (d) fails to furnish to the Board or any officer or other employee of the Board any information required by the Board or such officer or other employee for the purposes of this Act;
- (e) fails to intimate the occurrence of the emission of air pollutants into the atmosphere in excess of the standards laid down by the State Board or the apprehension of such occurrence, to the State Board and other prescribed authorities or agencies as required under sub-section (1) of section 23;
- (f) fails in giving any information which he is required to give under this Act, makes a statement which is false in any material particular,

shall be liable to penalty which shall not be less than ten thousand rupees, but which may extend to fifteen lakh rupees.

- (2) Where any person continues contravention under sub-section (1), he shall be liable to additional penalty of ten thousand rupees for every day during which such contravention continues.
- 38A. Penalty for contravention by Government Department.—(I) Where contravention of any provision of this Act has been committed by any Department of the Central Government or the State Government, the Head of the Department shall be liable to penalty equal to one month of his basic salary:

(1) (2) (3) (4)

Provided that he shall not be liable for such contravention, if he proves that the contravention was committed without his knowledge or instructions or that he exercised all due diligence to prevent such contravention.

(2) Where any contravention under sub-section (I) is attributable to any neglect on the part of, any officer, other than the Head of the Department, the officer shall be liable to penalty equal to one month of his basic salary:

Provided that he shall not be liable for the contravention, if he proves that he exercised all due diligence to avoid such contravention.

39. Penalties for contravention of certain provisions of this Act.—If any person contravenes any of the provisions of this Act or any order or direction issued thereunder, for which no penalty has been provided for in this Act, shall be liable to penalty which shall not be less than ten thousand rupees, but which may extend to fifteen lakh rupees, and where such contravention continues, he shall be liable to additional penalty which may extend to ten thousand rupees for every day during which such contravention continues.

39A. Adjudicating officer.—(1) The Central Government, for the purposes of determining the penalties under sections 37, 38, 38A and section 39, shall appoint an officer not below the rank of Joint Secretary to the Government of India or a Secretary to the State Government to be the adjudicating officer, to hold an inquiry and to impose the penalty in the manner, as may be prescribed:

Provided that the Central Government may appoint as many adjudicating officers as may be required.

(2) The adjudicating officer may summon and enforce the attendance of any person acquainted with the facts and circumstances of the case to give evidence or to produce any document, which in the opinion of the adjudicating officer, may be useful for or relevant to the subject-matter of the inquiry and if, on such inquiry, he is satisfied that the person concerned has contravened the provisions of this Act, he may determine such penalty as he thinks fit

under the provisions of sections 37, 38, 38A or 39, as the case may be:

Provided that no such penalty shall be imposed without giving the person concerned a reasonable opportunity of being heard.

- (3) The amount of penalty imposed under the provisions of sections 37, 38, 38A and 39, shall be in addition to the liability to pay relief or compensation under section 15 read with section 17 of the National Green Tribunal Act, 2010 (19 of 2010).
- 39B. Appeal.—(1) Whoever aggrieved by the order passed by the adjudicating officer under sections 37, 38, 38A or 39, may prefer an appeal to the National Green Tribunal established under section 3 of the National Green Tribunal Act, 2010 (19 of 2010).
- (2) Every appeal under sub-section (1) shall be filed within sixty days from the date on which the copy of the order made by the adjudicating officer is received by the aggrieved person.
- (3) The Tribunal may, after giving the parties to the appeal an opportunity of being heard, pass such order as it thinks fit, confirming, modifying or setting aside the order appealed against.
- (4) Where an appeal is preferred against any order of the adjudicating officer under sub-section (I), it shall not be entertained by the Tribunal unless the person has deposited with the Tribunal ten per cent. of the amount of the penalty imposed by the adjudicating officer.
- 39C. Penalty amount to be credited to Environmental Protection Fund.—Where an adjudicating officer imposes penalty or additional penalty, as the case may be, under sections 37, 38, 38A or 39, the amount of such penalty shall be credited to the Environmental Protection Fund established under section 16 of the Environment (Protection) Act, 1986 (29 of 1986).
- 39D. Offences for failure to comply with provisions of section 21 and for failure to pay penalty.—(I) Whoever fails to comply with the provisions of section 21, shall, in respect of each such failure, be punishable with imprisonment for a term

which shall not be less than one year and six months but which may extend to six years and with fine, and in case the failure continues, with an additional fine which may extend to fifty thousand rupees for every day during which such failure continues after the conviction for the first such failure.

- (2) If the failure referred to in sub-section (1) continues beyond a period of one year after the date of conviction, the offender shall be punishable with imprisonment for a term which shall not be less than two years but which may extend to seven years and with fine.
- (3) Where any person fails to pay the penalty or the additional penalty, as the case may be, imposed under the provisions of this Act within ninety days of such imposition, he shall be punishable with imprisonment for a term which may extend to three years, or with fine which may extend to twice the amount of the penalty or additional penalty so imposed or with both.
- (4) Where any offence under sub-section (1) or sub-section (2) or sub-section (3) has been committed by a company, every person who, at the time the offence was committed, was directly in charge of, and was responsible to, the company for the conduct of the business of the company, as well as the company, shall be deemed to be guilty of such offence and he shall be liable to be proceeded against and punished accordingly:

Provided that nothing contained in this sub-section shall render any such person liable to any punishment provided in sub-section (1) or sub-section (2) or sub-section (3), if he proves that the offence was committed without his knowledge or that he exercised all due diligence to prevent the commission of such offence.

(5) Notwithstanding anything contained in sub-section (4), where an offence has been committed by a company and it is proved that the offence has been committed with the consent or connivance of, or is attributable to any neglect on the part of, any director, manager, secretary or other officer of the company, such director, manager, secretary or other officer shall also

be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

Explanation.—For the purposes of this section,—

- (a) "company" includes body corporate, firm, trust, society and any other association of individuals;
- (b) "director" includes director of the company, partner of the firm, members of the society or trust or member of any association of individuals, as the case may be.'.
- (D) In section 43, in sub-section (1), after clause (a), the following clause shall be inserted, namely:—
 - "(*aa*) the adjudicating officer or any officer authorised by him in this behalf; or".
- (E) In section 53, in sub-section (I), after clause (g), the following clause shall be inserted, namely:—
 - "(h) the manner of holding inquiry and imposing penalties by the adjudicating officer under sub-section (I) of section 39A.".

22. 1981 61 The National Bank for Agriculture and Rural Development

Act, 1981

In section 56, for sub-section (2), the following sub-sections shall be substituted, namely:—

- "(2) If any person fails to produce any book, account or other document, or to furnish any statement or information which, under the provisions of this Act, it is his duty to produce or furnish, he shall be liable to penalty which may extend to one lakh fifty thousand rupees in respect of each failure and in the case of a continuing failure, an additional penalty which may extend to seven thousand five hundred rupees for every day during which the failure continues after the first such failure.
- (3) For the purpose of adjudging penalty under sub-section (2), the National Bank shall serve notice on the person requiring it to show cause why the amount specified in the notice should not be imposed as a penalty and a reasonable opportunity of being heard shall also be given to such person.
- (4) Any penalty imposed by the National Bank under this section shall be

payable within a period of fourteen days from the date on which notice issued by the National Bank demanding payment of the sum is served on the person and, in the event of failure of the person to pay the sum within such period, may be levied on a direction made by the principal civil court having jurisdiction in the area where the person is situated:

Provided that no such direction shall be made except on an application made to the court by the National Bank or by any officer authorised by the National Bank in this behalf.

- (5) The court which makes a direction under sub-section (4) shall issue a certificate specifying the sum payable by the person and every such certificate shall be enforceable in the same manner as if it were a decree made by the court in a civil suit.
- (6) No complaint shall be filed against any person in any court relating to any contravention or default in respect of which any penalty has been imposed by the National Bank under sub-section (2).
- (7) Where any complaint has been filed against any person in any court in respect of the contravention or default of the nature referred to in sub-section (1), then, no proceedings for the imposition of any penalty on the person shall be initiated under sub-section (2).".
- (A) In section 26, for the words "punishable with fine which may extend to five hundred rupees", the words "liable to penalty which may extend to fifty thousand rupees and for subsequent failure, penalty which may extend to one lakh rupees" shall be substituted.
- (B) In section 27, in the long line, for the words "punishable with imprisonment which may extend to six months, or with fine which may extend to one thousand rupees, or with both", the words "liable to penalty which may extend to fifty thousand rupees and for subsequent contravention penalty which may extend to one lakh rupees" shall be substituted.

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- (C) Section 28 shall be omitted.
- (D) In section 29, for the words "punishable with imprisonment for a term which may extend to one year, or with fine which may extend to one thousand rupees, or with both", the words "liable to penalty which may extend to fifty thousand rupees and for subsequent contravention penalty which may extend to one lakh rupees" shall be substituted.
- (E) In section 30, for the words "punishable with imprisonment which may extend to six months, or with fine which may extend to one thousand rupees, or with both, and in the case of a continuing contravention with an additional fine which may extend to fifty rupees for every day during which such contravention continues after conviction for the first such contravention", the words "liable to penalty which may extend to fifty thousand rupees and for subsequent contravention penalty which may extend to one lakh rupees" shall be substituted.
- (F) After section 30, the following section shall be inserted, namely:—
- "30A. Adjudication of penalties.—(1) For the purposes of adjudging the penalties under sections 26, 27, 29 and 30, the Secretary to the Board shall appoint an officer not below the rank of Director in the Board or any other officer authorised by the Central Government, as the case may be, to be an adjudicating officer for holding an inquiry and imposing penalty in the manner as may be prescribed, after giving any person concerned a reasonable opportunity of being heard.
- (2) Whoever is aggrieved by any order of the adjudicating officer may prefer an appeal to the Secretary to the Board, within a period of sixty days from the date of receipt of such order in such form and manner as may be prescribed.
- (3) An appeal may be admitted after the expiry of the period of sixty days if the appellant satisfies the Secretary to the Board that he had sufficient cause for not preferring the appeal within that period.

- (4) No appeal shall be disposed of unless the appellant has been given a reasonable opportunity of being heard.
- (5) An appeal under sub-section (2) shall be disposed of within sixty days from the date of filing.
- (6) The amount of penalty imposed under sub-section (1), if not paid, shall be recovered as an arrear of land revenue.".
- (*G*) In section 38, in sub-section (2), after clause (*m*), the following clauses shall be inserted, namely:—
- "(*ma*) the manner of holding inquiry and imposing penalty under sub-section (*l*) of section 30A;

(mb) the form and manner of preferring appeal under sub-section (2) of section 30A;".

- (A) In section 2, after clause (c), the following clause shall be inserted, namely:—
- '(ca) "Fund" means the Environmental Protection Fund established under section 16;'.
- (B) In section 10, for sub-sections (2) to (4), the following sub-sections shall be substituted, namely:—
- "(2) Every person carrying on any industry, operation or process of handling any hazardous substance shall render assistance, as may be required, to the person empowered by the Central Government under sub-section (1) for carrying out the functions under that sub-section and if he fails to do so without any reasonable cause, he shall be liable to penalty provided under section 14B.
- (3) If any person willfully delays or obstructs any person empowered by the Central Government under sub-section (I) in the performance of his functions under sub-sections (I) or (2), he shall be liable to penalty provided under section 14B.
- (4) The provisions of the Code of Criminal Procedure, 1973 (2 of 1974), shall, so far as may be, apply to any search or seizures under this section as they apply to

24. 1986 29 The Environment (Protection)
Act, 1986

any search or seizures made under the authority of a warrant issued under section 94 of that Code.".

- (C) After section 14, the following sections shall be inserted, namely:—
- "14A. Penalty for contravention of section 7 or section 8.—(I) If any person, contravenes provisions of section 7 or section 8 or the rules made thereunder, he shall be liable to penalty in respect of each such contravention, which shall not be less than one lakh rupees but which may extend to fifteen lakh rupees.
- (2) Where any person continues contravention under sub-section (1), he shall be liable to additional penalty of fifty thousand rupees for every day during which such contravention continues.
- 14B. Penalty for contravention of sections 9, 10 and 11.—(1) If any person contravenes or does not comply with the provisions of section 9, section 10 or section 11 or orders or directions issued under those sections, he shall be liable to penalty in respect of each such contravention which shall not be less than ten thousand rupees but which may extend to five lakh rupees.
- (2) Where any person continues contravention under sub-section (I), he shall be liable to additional penalty of ten thousand rupees for every day during which such contravention continues.".
- (D) For sections 15 to 17, the following shall be substituted, namely:—
- '15. Penalty for contravention of provisions of Act, rules, orders and directions.—(I) Where any person contravenes or does not comply with any of the provisions of this Act or the rules made or orders or directions issued thereunder for which no penalty is provided, he shall be liable to penalty in respect of each such contravention which shall not be less than ten thousand rupees but which may extend to fifteen lakh rupees.
- (2) Where any person continues contravention under sub-section (I), he shall be liable to additional penalty of

ten thousand rupees for every day during which such contravention continues.

- 15A. Penalty for contravention by companies.—(*I*) Where any company contravenes any of the provisions of this Act, the company shall be liable to penalty for each such contravention which shall not be less than one lakh rupees but which may extend to fifteen lakh rupees.
- (2) Where any company continues contravention under sub-section (1), the company shall be liable to additional penalty of one lakh rupees for every day during which such contravention continues.
- 15B. Penalty for contravention by Government Department.—(I) Where contravention of any of the provision of this Act has been committed by any Department of the Central Government or the State Government, the Head of the Department shall be liable to penalty equal to one month of his basic salary:

Provided that he shall not be liable for such contravention, if he proves that the contravention was committed without his knowledge or instructions or that he exercised all due diligence to prevent such contravention.

(2) Where any contravention under sub-section (I) is attributable to any neglect on the part of, any officer, other than the Head of the Department, the officer shall be liable to penalty equal to one month of his basic salary:

Provided that he shall not be liable for the contravention, if he proves that he exercised all due diligence to avoid such contravention.

15C. Adjudicating officer.—(1) The Central Government, for the purposes of determining the penalties under this Act, may appoint an officer not below the rank of Joint Secretary to the Government of India or a Secretary to the State Government to be the adjudicating officer, to hold an inquiry and to impose penalty in the manner, as may be prescribed:

Provided that the Central Government may appoint as many adjudicating officers as may be required.

- (2) The adjudicating officer may—
- (a) call upon any person alleged to have contravened or not complied with the provisions of this Act and the rules made thereunder or having the knowledge of the facts and circumstances of the case;
- (b) require such person to produce any record, register or other document in his possession or any other document, which in the opinion of the adjudicating officer may be relevant to the subject-matter.
- (3) The adjudicating officer shall, after giving the person a reasonable opportunity of being heard in the matter, and if, on such inquiry, he is satisfied that the person concerned has contravened or has not complied with the provisions of this Act or the rules made thereunder, he may impose such penalty as he thinks fit in accordance with the provisions of sections 14A, 14B, 15, 15A or section 15B, as the case may be.
- (4) The adjudicating officer, while adjudicating the quantum of penalty under sub-section (3), shall have due regard to the following, namely:—
 - (a) the population and the area impacted or affected due to such contravention or non-compliance;
 - (b) the frequency and duration of such contravention or non-compliance;
 - (c) the vulnerability of the class of persons likely to be adversely affected by such contravention or non-compliance;
 - (d) the damage caused or likely to be caused to any person, as a result of such contravention or non-compliance, if any;
 - (e) the undue gain derived out of such contravention or non-compliance; and
 - (f) such other factor, as may be prescribed.
- (5) The amount of penalty imposed under the provisions of sections 14A, 14B, 15, 15A or 15B, as the case may be, shall be

in addition to the liability to pay relief or compensation under section 15 read with section 17 of the National Green Tribunal Act, 2010 (19 of 2010).

- 15D. Appeal.—(1) Whoever aggrieved by the order, passed by the adjudicating officer under this Act may prefer an appeal to the National Green Tribunal established under section 3 of the National Green Tribunal Act, 2010 (19 of 2010).
- (2) Every appeal under sub-section (1) shall be filed within sixty days from the date on which the copy of the order made by the adjudicating officer is received by the aggrieved person.
- (3) The Tribunal may, after giving the parties to the appeal an opportunity of being heard, pass such order as it thinks fit, confirming, modifying or setting aside the order appealed against.
- (4) Where an appeal is preferred against any order of the adjudicating officer under sub-section (I), such appeal shall not be entertained by the Tribunal unless such person has deposited with the Tribunal ten per cent. of the amount of the penalty imposed by the adjudicating officer.
- 15E. Penalty amount to be credited to Environmental Protection Fund.—Where any penalty or additional penalty, as the case may be, is imposed under sections 14A, 14B, 15, 15A or section 15B, the amount of the penalty shall be credited to the Environmental Protection Fund established under section 16.
- 15F. Offence for failure to pay penalty or additional penalty.—(1) Where any person fails to pay the penalty or additional penalty, as the case may be, under sections 14A, 14B, 15, 15A or section 15B within ninety days of such imposition, he shall be liable for imprisonment which may extend to three years or with fine which may extend to twice the amount of the penalty or with both.
- (2) Where any offence under sub-section (I) has been committed by a company, every person who, at the time the

offence was committed, was directly in charge of, and was responsible to, the company for the conduct of the business of the company, as well as the company, shall be deemed to be guilty of offence and he shall be liable to be proceeded against and punished accordingly:

Provided that nothing contained in this sub-section shall render any person liable to any punishment provided in sub-section (1), if he proves that the offence was committed without his knowledge or that he exercised all due diligence to prevent the commission of such offence.

(3) Notwithstanding anything contained in sub-section (2), where an offence has been committed by a company and it is proved that the offence has been committed with the consent or connivance of, or is attributable to any neglect on the part of, any director, manager, secretary or other officer of the company, such director, manager, secretary or other officer shall also be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

Explanation.—For the purposes of this section,—

- (a) "company" includes body corporate, firm, trust, society and any other association of individuals;
- (b) "director" includes director of the company, partner of the firm, members of the society or trust or member of any association of individuals, as the case may be.'.
- (E) After Chapter III, the following Chapter shall be inserted, namely:—

"CHAPTER IIIA

Fund, accounts and audit

- 16. Environmental Protection Fund.—
 (1) The Central Government may, by notification in the Official Gazette, establish a fund to be known as the Environmental Protection Fund.
- (2) There shall be credited to the Fund—

- (a) the amount of penalty imposed under the Air (Prevention and Control of Pollution) Act, 1981 (14 of 1981), and under this Act;
- (b) the interest or other income received out of investments made from the Fund; and
- (c) any other amount from such sources, as may be prescribed.
- (3) The Fund shall be applied for—
- (a) the promotion of awareness, education and research for the protection of environment;
- (b) the expenses for achieving the objects and for purposes of the Air (Prevention and Control of Pollution) Act, 1981(14 of 1981) and under this Act;
- (c) such other purposes, as may be prescribed.
- (4) The Central Government shall notify the administrator for the administration of the Fund and other matters connected therewith and incidental thereto in such manner, as may be prescribed.
- (5) The Central Government shall allocate seventy-five per cent. of the amount of penalties to the State Governments or Union territory administrations, which has been credited to the Fund.
- 16A. Accounts and audit of Fund.—
 (1) The Central Government shall maintain separate accounts and other relevant records in relation to the Environmental Protection Fund and prepare an annual statement of accounts in such form, as may be prescribed, in consultation with the Comptroller and Auditor-General of India.
- (2) The accounts of the Fund shall be audited by the Comptroller and Auditor-General of India at such intervals as may be specified by him and such audited accounts together with the audit report thereon shall be forwarded annually to the Central Government.
- 16B. Annual report.—The Central Government shall prepare its annual report in relation to Environmental Protection Fund

(1) (2) (3) (4)

giving a full account of its activities defined under this Act in such form, as may be prescribed, for each financial year during the previous financial year, and shall be laid before each House of Parliament along with audit report given by the Comptroller and Auditor-General of India.".

- (F) In section 19, after clause (a), the following clause shall be inserted, namely:—
- "(aa) adjudicating officer or any officer authorised by him in this behalf;".
- (*G*) For section 24, the following section shall be substituted, namely:—
- "24. Effect of other laws.—The provisions of this Act and the rules or orders made thereunder shall have effect notwithstanding anything inconsistent therewith contained in any other law for the time being in force."
- (H) In section 25, in sub-section (2), after clause (g), the following clauses shall be inserted, namely:—
- "(ga) the manner of holding inquiry and imposing penalty by the adjudicating officer under sub-section (I) and other factors for determining quantum of penalty under clause (f) of sub-section (4) of section 15C;
- (gb) the other amount under clause (c) of sub-section (2) of section (2)
- (gc) the other purposes under clause (c) of sub-section (3) of section 16;
- (gd) the manner of administration of Fund under sub-section (4) of section 16;
- (ge) form for maintenance of accounts of the Fund and for preparation of annual statement of accounts under sub-section (I) of section 16A;
- (gf) form for preparing annual report of the Fund under section 16B;".
- (A) After section 33B, the following section shall be inserted, namely:—
- "33C. Power to take action against auditors.—Where any auditor fails to comply with any direction given or order made by the National Housing Bank or the

25. 1987 53 The National Housing Bank Act, 1987

Reserve Bank under section 33, the Reserve Bank may, after giving a reasonable opportunity of being heard, remove or debar the auditor from exercising the duties as auditor of any of the Reserve Bank regulated entities for a maximum period of three years, at a time.".

- (B) In section 49,—
- (i) sub-sections (2) and (2B) shall be omitted;
- (*ii*) in sub-section (*3*), clause (*aa*) shall be omitted;
- (iii) sub-section (4) shall be omitted.
- (C) In section 52A,—
- (I) in the marginal heading, for the word "fine", the word "penalty" shall be substituted;
 - (II) in sub-section (I),—
 - (i) in clause (a), for the words "five thousand", the words "twenty-five thousand" shall be substituted;
 - (ii) in clause (b),—
 - (a) the words, brackets and letters "or clause (aa)" shall be omitted;
 - (b) for the words "five lakh", the words "ten lakh" shall be substituted;
 - (c) for the words "twenty-five thousand", the words "one lakh" shall be substituted;
- (III) after sub-section (1), the following sub-sections shall be inserted, namely:—
 - "(1A) If any person or housing finance institution which is a company fails to produce any book, account or other document, or to furnish any statement or information, which, under the provisions of this Act, is the duty of such person or housing finance institution to produce or furnish, the National Housing Bank or the Reserve Bank, as the case may

(1) (2) (3) (4)

be, may impose on such person or housing finance institution, a penalty not exceeding one lakh fifty thousand rupees in respect of each contravention or default and where such contravention or default is a continuing one, further penalty which may extend to seven thousand five hundred rupees for every day, after the first, during which the contravention or default continues.

(1B) If any auditor fails to comply with any direction given or order made by the National Housing Bank or the Reserve Bank under section 33, the National Housing Bank or the Reserve Bank, as the case may be, may impose on such person a penalty not exceeding ten lakh rupees.

(1C) If any person (other than an auditor) or housing finance institution which is a company fails to comply with any direction given or order made by the National Housing Bank or the Reserve Bank under any of the provisions of Chapter V, the National Housing Bank or the Reserve Bank, as the case may be, may impose on such person or housing finance institution, a penalty not exceeding ten lakh rupees or twice the amount involved in such contravention or default, where the amount is quantifiable, whichever is more; and where such contravention or default is a continuing one, further penalty which may extend to one lakh rupees for every day, after the first, during which the contravention or default continues.

(1D) If any other provision of this Act is contravened or if any default is made in complying with any other requirement of this Act, or of any order, regulation or direction made or given or condition imposed thereunder, the National Housing Bank or the Reserve Bank, as the case may be, may impose on any person or housing finance institution which is a company, guilty of such contravention or default, a penalty

not exceeding one lakh rupees in respect of each contravention or default and where such contravention or default is a continuing one, further penalty which may extend to ten thousand rupees for every day, after the first, during which the contravention or default continues.";

(IV) in sub-section (2),—

- (i) for the word, brackets and figure "sub-section (1)", the words "this section" shall be substituted;
- (ii) for the words "housing finance institution" at both the places where they occur, the words "person or housing finance institution" shall be substituted;

(V) in sub-section (3),—

- (i) for the words "served on the housing finance institution", the words "served on the person or housing finance institution" shall be substituted;
- (ii) for the words "failure of such housing finance institution", the words "failure of such person or housing finance institution" shall be substituted;
- (iii) for the words "the area where the registered office", the words "the area where such person ordinarily resides or, as the case may be, the registered office" shall be substituted;
- (VI) in sub-section (4), after the words "payable by the", the words "person or" shall be inserted.
- (A) In section 192A, in subsection (I),—
 - (i) for the words "and a fine of ten thousand rupees", the words "a fine of ten thousand rupees, or with both" shall be substituted;
 - (ii) the proviso shall be omitted.
- (B) In section 200, for sub-section (1), the following sub-section shall be substituted, namely:—

26. 1988 59 The Motor Vehicles Act, 1988

"(1) Any offence whether committed before or after the commencement of this Act punishable under section 177, section 177A, section 178, section 179, section 180, section 181, section 182, sub-section (1) or sub-section (3) or sub-section (4) of section 182A, section 182B, sub-section (1) or sub-section (2) of section 183, clause (c) of the Explanation to section 184, section 186, section 189, sub-section (2) of section 190, section 192, section 192A, sub-section (3) of section 192B, section 194, section 194A, section 194B, section 194C, section 194D, section 194E, section 194F, section 196, section 198 and section 201, may, either before or after the institution of the prosecution, be compounded by such officers or authorities and for such amount as the State Government may, by notification in the Official Gazette, specify in this behalf.".

(C) In section 215, in sub-section (3), the following proviso shall be inserted, namely:—

"Provided that where a State Government has not constituted the District Road Safety Committee, the Central Government may, by notification in the Official Gazette, constitute a Committee for such District, consisting of a Chairman and such other members as it considers necessary and on such terms and conditions as it may determine.".

In section 144, for sub-section (2), the following sub-section shall be substituted, namely:—

"(2) No person shall be permitted to beg in any railway carriage or upon any part of the railway.".

(A) In section 2,—

(i) clause (ha) shall be numbered as clause (hb) thereof and before clause (ha) as so renumbered, the following clause shall be inserted, namely:—

'(ha) "property" includes any private property or public property affected or damaged by any unit or undertaking, due to manufacture, processing, treatment, package,

27. 1989 24 The Railways Act, 1989

28. 1991 6 The Public Liability Insurance Act, 1991

storage, transportation, use, collection, destruction, conversion, transfer or such other processes of hazardous substance;';

- (ii) after clause (j), the following clause shall be inserted, namely:—
- "(k) words and expressions used and not defined in this Act but defined in the Transfer of Property Act, 1882 (4 of 1882), and the Environment (Protection) Act, 1986 (29 of 1986), shall have the meanings respectively assigned to them in those Acts.".
- (B) In section 3, for sub-section (1), the following sub-section shall be substituted, namely:—
- "(1) Where death or injury to any person (other than a workman) or damage to any property has resulted from an accident, the owner shall be liable to reimburse such amount, or provide such other relief as may be prescribed, for—
 - (a) death due to fatal accident;
 - (b) medical expenses incurred due to total or partial disability;
 - (c) loss of wages due to partial disability;
 - (d) other injury or sickness;
 - (e) damage to private property;
 - (f) such other loss or damage, as may be prescribed.".
 - (C) In section 4,—
- (a) for sub-section (1), the following shall be substituted, namely:—
- "(1) Every owner of any undertaking shall take out, before he starts handling any hazardous substance, one or more insurance policies for such undertaking or unit providing for contracts of insurance whereby he is insured against liability to give such relief or reimburse such amount referred to in sub-section (1) of section 3.

Explanation.—For the purposes of this sub-section, it is hereby clarified that any undertaking having separate consent to operate under—

- (i) the Water (Prevention and Control of Pollution) Act, 1974 (6 of 1974); and
- (ii) the Air (Prevention and Control of Pollution) Act, 1981 (14 of 1981),

shall be treated as a separate unit:

Provided that any owner handling any hazardous substance immediately before the commencement of the *Jan Vishwas* (Amendment of Provisions) Act, 2023 shall take out such insurance policy or policies as soon as may be and in any case within a period of one year from commencement of that Act.";

(b) for sub-section (2A), the following shall be substituted, namely:—

'(2A) An insurance policy taken out or renewed by an owner for any undertaking or unit shall be for an amount which shall not be less than the amount of the paid-up capital of that undertaking or unit handling any hazardous substance owned or controlled by that owner and may extend to such amount as may be prescribed but not exceeding five hundred crore rupees.

Explanation.—For the purposes of this sub-section "paid-up capital", in relation to an owner not being a company, means the market value of all assets and stocks of the undertaking on the date of contract of insurance.'.

- (D) In section 6, after sub-section (1), the following sub-section shall be inserted, namely:—
 - "(1A) Where any damage has been caused to any public property or private property due to manufacture, processing, treatment, package, storage, transportation, use, collection, destruction, conversion, transfer or such other processes, of such hazardous substance, an application for claim for restoration of the property may be made by the owner of the property or such other person, as may be prescribed, to the Collector.".
- (*E*) In section 7, after sub-section (8), the following sub-section shall be inserted, namely:—
 - "(9) Where the environment is affected or damaged due to manufacture, processing, treatment, package, storage, transportation, use, collection, destruction, conversion, transfer or such other processes, of such hazardous substance, the Central Government may, on an

application made by the Central Pollution Control Board or the State Pollution Control Board, as the case may be, allocate the fund from the Environmental Relief Fund for restoration of the damage so caused in the manner as may be prescribed.".

- (F) In section 7A, after sub-section (1), the following sub-section shall be inserted, namely:—
 - "(IA) There shall be credited to the Relief Fund established under sub-section (I)—
 - (a) the amount referred to in sub-section (2C) of section 4;
 - (b) the amount of penalty imposed under this Act;
 - (c) the interest or other income received out of investments made from the Fund; and
 - (*d*) any other amount from such sources, as may be prescribed.".
- (G) For sections 14 and 15, the following sections shall be substituted, namely:—
 - "14. Penalty for contravention.—(I) Where any person contravenes any of the provisions of sub-section (I), sub-section (2), sub-section (2A) or sub-section (2C) of section 4, he shall be liable to penalty equal to the amount of annual premium for insurance policy and may extend to twice the amount of such premium.
 - (2) Where contravention under subsection (1) continues, an additional penalty may be imposed by the adjudicating officer, which shall not exceed the amount of premium to be paid, for each month or part thereof during which the contravention continues.
 - 15. Penalty for non-compliance of directions.—(I) Where any person does not comply with any direction issued under section 12, he shall be liable to penalty which shall not be less than ten thousand rupees which may extend to fifteen lakh rupees.
 - (2) Where any person continues non-compliance under sub-section (I), he shall be liable to additional penalty to be imposed by the adjudicating officer, which shall not be less than ten thousand rupees for every day during which such non-compliance continues.
 - (3) Where any owner does not

(1) (2) (3) (4)

comply with the direction issued under section 9 or obstructs any person in discharge of his functions under section 10 or under sub-sections (I), (2) or (3) of section 11, he shall be liable to penalty which shall not be less than ten thousand rupees but which may extend to fifteen lakh rupees.

- (4) Where any person continues non-compliance under sub-section (3), he shall be liable to additional penalty of ten thousand rupees for every day during which such non-compliance continues.
- 15A. Adjudicating officer.—(I) The Central Government, for the purposes of determining the penalties under sections 14 or 15, may appoint the District Magistrate having jurisdiction over the area or an officer not below the rank of Director to the Government of India or an officer not below the rank of Joint Secretary to the State Government, to be the adjudicating officer, to hold an inquiry and impose penalty in the manner, as may be prescribed:

Provided that the Central Government may appoint as many adjudicating officers as may be required.

(2) The adjudicating officer may summon and enforce the attendance of any person acquainted with the facts and circumstances of the case to give evidence or to produce any document, which in the opinion of the adjudicating officer, may be useful for, or relevant to, the subject-matter of the inquiry and if, on such inquiry, he is satisfied that the person concerned has failed to comply with the provisions of sub-section (21), sub-section (24) or sub-section (2C) of section 4 and section 12, he may determine such penalty as he thinks fit under the provisions of sections 14 and 15:

Provided that no such penalty shall be imposed without giving the person concerned a reasonable opportunity of being heard.

15B. Appeal.—(*I*) Whoever aggrieved by the order, passed by the adjudicating officer under section 15A, may prefer an appeal to the National Green Tribunal established under section 3 of the National

Green Tribunal Act, 2010 (19 of 2010).

- (2) Every appeal under sub-section (*I*) shall be filed within sixty days from the date on which the copy of the order made by the adjudicating officer is received by the aggrieved person.
- (3) The Tribunal may, after giving the parties to the appeal an opportunity of being heard, pass such order as it thinks fit, confirming, modifying or setting aside the order appealed against.
- (4) Where an appeal is preferred against any order of the adjudicating officer under sub-section (I), such appeal shall not be entertained by the Tribunal unless such person has deposited with the Tribunal ten per cent. of the amount of the penalty imposed by the adjudicating officer.".
- (H) Section 16 shall be omitted.
- (I) For section 17, the following sections shall be substituted, namely:—
 - '17. Penalty for contravention by Government Department.—(*I*) Where contravention of any provision of this Act has been committed by any Department of the Central Government or State Government, the Head of the Department shall be liable to penalty equal to one month of his basic salary:

Provided that he shall not be liable for such contravention, if he proves that the contravention was committed without his knowledge or instructions or that he exercised all due diligence to prevent such contravention.

(2) Where any contravention under sub-section (1) is attributable to any neglect on the part of, any officer, other than the Head of the Department, he shall be liable to penalty equal to one month of his basic salary:

Provided that he shall not be liable for the contravention, if he proves that he exercised all due diligence to avoid such contravention.

17A. Penalty amount to be credited to Environmental Relief Fund.—Where any penalty or additional penalty, as the case may be, is imposed under section 14 or

section 15 or section 17, the amount of such penalty shall be credited to the Environmental Relief Fund established under section 7A.

17B. Offence for failure to pay penalty or additional penalty.—(1) Where any person fails to pay the penalty or additional penalty imposed for—

- (a) contravention or continued contravention under section 14 or 17, as the case may be; or
- (b) non-compliance of the directions issued under section 15.

within ninety days of such imposition, he shall be liable for imprisonment which may extend to three years or with fine which may extend up to fifteen lakh rupees, or with both.

(2) Where any offence under subsection (1) has been committed by a company, every person who, at the time the offence was committed, was directly in charge of, and was responsible to, the company for the conduct of the business of the company, as well as the company, shall be deemed to be guilty of such offence and shall be liable to be proceeded against and punished accordingly:

Provided that nothing contained in this sub-section shall render any such person liable to any punishment provided in this Act, if he proves that the offence was committed without his knowledge or that he exercised all due diligence to prevent the commission of such offence.

(3) Notwithstanding anything contained in sub-section (2), where an offence under this Act has been committed by a company and it is proved that the offence has been committed with the consent or connivance of, or is attributable to any neglect on the part of, any director, manager, secretary or other officer of the company, such director, manager, secretary or other officer shall also be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

 ${\it Explanation.} {\it --} For the purposes of this section, {\it --}$

(a) "company" means any body

(1) (2) (4) (5) (3)

> corporate and includes a firm or other association of individuals;

- (b) "director" includes director of the company and in relation to a firm, a partner in the firm.'.
- (J) In section 23, in sub-section (2),—
- (i) for clause (a), the following clause shall be substituted, namely:-
 - "(a) such amount under subsection (2A) of section 4;";
- (ii) after clause (e), the following clauses shall be substituted, namely:-
 - "(ea) amount or relief and any other loss or damage under subsection (1) of section 3;
 - (eb) such other person under sub-section (1A) of section 6;
 - (ec) manner of allocation of fund for restoration of damage under sub-section (9) of section 7;
 - (ed) any other amount from other sources under clause (d) of subsection (1A) of section 7A;
 - (ee) manner of holding inquiry and imposing penalty under subsection (1) of section 15A;".
- (*K*) The Schedule shall be omitted.
- (A) For CHAPTER IV, the following CHAPTER shall be substituted, namely:—

"CHAPTER IV

PENALTIES

- 16. Penalty for contravention of provisions of this Act.—(1) Whoever contravenes any of the provisions of this Act shall be liable,—
 - (a) for the first contravention with advisory, or censure, or warning, or a penalty which may extend to twenty thousand rupees, or with both:
 - (b) for every subsequent contravention within a period of three years, with advisory, or censure, or warning, or a penalty which may extend to one lakh rupees, or with both,

by such designated officer, as may be prescribed.

29. 1995 Television Networks

The Cable (Regulation) Act, 1995

(2) The designated officer, may, for the reasons to be recorded in writing, by order, impose penalty referred to in subsection (I):

Provided that in cases of more than three contraventions over a period of three years, the designated officer, in addition to penalty referred to in sub-section (*I*), may, for the reasons to be recorded in writing, by order, suspend or revoke the registration granted:

Provided further that no order by the designated officer under this sub-section shall be made without giving a reasonable opportunity of being heard.

(3) Whoever aggrieved by the order made under sub-section (2), may prefer an appeal to the Secretary to the Government of India or such other officer authorised by him:

Provided that no such appeal shall be admissible after the expiry of thirty days from the date of receipt of such order:

Provided further that an appeal may be entertained after the expiry of the period of thirty days, if he is satisfied that the appellant was prevented by sufficient cause from preferring the appeal in time.".

(B) In section 22, in sub-section (2), after clause (da), the following clause shall be inserted, namely:—

"(db) the designated officer under sub-section (1) of section 16;".

- (A) Section 106 shall be omitted.
- (B) In section 107, in sub-section (2), for the words "punishable with imprisonment for a term which may extend to three years, or with fine, or with both", the words "liable to penalty of a sum equal to one half per cent. of the total sales or turnover, as the case may be, in business or of the gross receipts in profession, as computed in the audited accounts of such person, or a sum equal to five lakh rupees, whichever is less" shall be substituted.
 - (C) Sections 108 and 109 shall be omitted.
- (D) After section 112, the following section shall be inserted, namely:—

"112A. Adjudication of penalties.— The Registrar may, by an order, authorise an officer referred to in section 3, to be adjudicating officer for holding an inquiry

30. 1999 47 The Trade Marks Act, 1999

and imposing penalty under the provisions of this Act, in the manner as may be prescribed, after giving a reasonable opportunity of being heard.

- 112B. Appeal.—(1) Whoever aggrieved by an order of the adjudicating officer under section 112A may prefer an appeal to the appellate authority, who shall be an officer at least one rank above the adjudicating officer, within a period of sixty days from the date of receipt of the order, as the Central Government may by notification authorise in this behalf.
- (2) Every appeal under this section shall be preferred in such form and manner as may be prescribed.
- (3) An appeal may be admitted after the expiry of the period of sixty days if the appellant satisfies the appellate authority that he had sufficient cause for not preferring the appeal within that period.
- (4) No appeal shall be disposed of unless the appellant has been given a reasonable opportunity of being heard.
- (5) The appellate authority referred to in sub-section (I) shall dispose of the appeal within sixty days from the date of filing.
- (6) Notwithstanding anything contained in this Act, if the person fails to comply with the order of the adjudicating officer under section 112A or the order of the appellate authority under this section, as the case may be, within ninety days of such order, he shall, in addition to the penalty, be punishable with fine of one lakh rupees or imprisonment for a term which may extend to one year, or with both."
- (E) In section 140, for sub-section (3), the following sub-section shall be substituted, namely:—
 - "(3) The importer or his agent shall, within fourteen days, comply with the requirement as aforesaid, and if he fails to do so, he shall be liable to penalty of ten thousand rupees:

Provided that the penalty under this section shall be levied and recovered by such authority under the Customs Act, 1962 (52 of 1962) for this purpose.".

(F) In section 157, in sub-section (2), after clause (xxxiii), the following clauses shall be inserted, namely:—

"(xxxiiia) the manner of holding inquiry and imposing penalty under section 112A;

(xxxiiib) the form and manner of preferring appeal under sub-section (2) of section 112B; ".

cal (A) After section 37, the following sections shall be inserted, namely:—

"37A. Adjudication of penalties.— The Registrar may, by an order, authorise an officer referred to in section 3, to be adjudicating officer for holding an inquiry and imposing penalty under the provisions of this Act, in the manner as may be prescribed, after giving a reasonable opportunity of being heard.

- 37B. Appeal.—(1) Whoever aggrieved by an order of the adjudicating officer under section 37A may prefer an appeal to the appellate authority, who shall be an officer at least one rank above the adjudicating officer, within a period of sixty days from the date of receipt of the order, as the Central Government may by notification authorise in this behalf.
- (2) Every appeal under this section shall be preferred in such form and manner as may be prescribed.
- (3) An appeal may be admitted after the expiry of the period of sixty days if the appellant satisfies the appellate authority that he had sufficient cause for not preferring the appeal within that period.
- (4) No appeal shall be disposed of unless the appellant has been given a reasonable opportunity of being heard.
- (5) The appellate authority referred to in sub-section (1) shall dispose of the appeal within sixty days from the date of filing.
- (6) Notwithstanding anything contained in this Act, if the person fails to comply with the order of the adjudicating officer under section 37A or the order of the appellate authority under this section, as the case may be, within ninety days of such

31. 1999 48

The Geographical Indications of Goods (Registration and Protection) Act, 1999

order, he shall, in addition to the penalty, be punishable with fine of one lakh rupees or imprisonment for a term which may extend to one year, or with both.".

- (B) In section 42, in sub-section (2), for the words "punishable with imprisonment for a term which may extend to three years, or with fine, or with both", the words "liable to penalty of a sum equal to one-half per cent. of the total sales or turnover, as the case may be, in business or of the gross receipts in profession as computed in the audited accounts of such person, or a sum equal to five lakh rupees, whichever is less" shall be substituted.
 - (C) Sections 43 and 44 shall be omitted.
- (D) In section 87, in sub-section (2), after clause (o), the following clauses shall be inserted, namely:—
 - "(oa) the manner of holding inquiry and imposing penalty under section 37A;
 - (*ob*) the form and manner of preferring appeal under sub-section (2) of section 37B:".
- (A) In section 33, in sub-section (2), for the words "punished with imprisonment which may extend up to six months or a fine which may extend up to ten thousand rupees or with both", the words "liable to penalty which may extend to five lakh rupees" shall be substituted.

(B) In section 44,—

- (i) in clause (a), for the words "one lakh and fifty thousand", the words "fifteen lakh" shall be substituted;
- (ii) in clause (b), for the words "five thousand", the words "fifty thousand" shall be substituted:
- (iii) in clause (c), for the words "ten thousand", the words "one lakh" shall be substituted.

(C) In section 45,—

- (i) for the words "rules or regulations", the words "rules, regulations, directions or orders" shall be substituted;
- (ii) for the words "compensation not exceeding twenty-five thousand rupees to the person affected by such contravention or a penalty not exceeding twenty-five thousand rupees", the following shall be substituted, namely:—

32. 2000 21 The Information Technology Act, 2000

(1) (2) (3) (4)

"penalty not exceeding one lakh rupees, in addition to compensation to the person affected by such contravention not exceeding—

- (a) ten lakh rupees, by an intermediary, company or body corporate; or
- (b) one lakh rupees, by any other person.".

(D) In section 46,—

- (*i*) in sub-section (*I*), for the words "under this Chapter", the words "under this Act" shall be substituted;
- (ii) in sub-section (1A), the words "injury or" at both the places where they occur shall be omitted.
- (E) Section 66A shall be omitted.
- (F) In section 67C, in sub-section (2), for the words "punished with an imprisonment for a term which may extend to three years and also be liable to fine", the words "liable to penalty which may extend to twenty-five lakh rupees" shall be substituted.
- (G) In section 68, in sub-section (2), for the words "on conviction to imprisonment for a term not exceeding two years or a fine not exceeding one lakh rupees or with both", the words "to penalty which may extend to twenty-five lakh rupees" shall be substituted.
- (H) In section 69B, in sub-section (4), for the words "three years and shall also be liable to fine", the words "one year or shall be liable to fine which may extend to one crore rupees, or with both" shall be substituted.
- (I) In section 70B, in sub-section (7), for the words "one lakh", the words "one crore" shall be substituted.
- (*J*) In section 72, for the words "punished with imprisonment for a term which may extend to two years, or with fine which may extend to one lakh rupees, or with both", the words "liable to penalty which may extend to five lakh rupees" shall be substituted.

(K) In section 72A,—

- (i) in the marginal heading, for the word "Punishment", the word "Penalty" shall be substituted;
- (ii) for the words "punished with imprisonment for a term which may

(1) (4)(5) (2)(3)

> extend to three years, or with fine which may extend to five lakh rupees, or with both", the words "liable to penalty which may extend to twenty-five lakh rupees" shall be substituted.

33. 2002 60 The Metro Railways (Operation and

Maintenance)

Act, 2002

(A) In section 6, in sub-section (2), after clause (g), the following clause shall be inserted, namely:-

> "(ga) levy and collect penalties under this Act;".

- (B) In section 59, in sub-section (2),—
- (i) for the words "punishable with fine which may extend to two hundred and fifty rupees", the words "liable to penalty which may extend to ten thousand rupees" shall be substituted;
- (ii) for the words "five hundred rupees", the words "ten thousand rupees" shall be substituted.
- (C) In section 63, for the words "after being warned by any metro railway official to desist, he shall be punishable with imprisonment for a term which may extend to one month, or with fine which may extend to fifty rupees, or with both", the words "he shall be liable to penalty which may extend to five thousand rupees" shall be substituted.
- (D) In section 65, in the long line, for the words "five years, or with fine which may extend to six thousand rupees, or with both", the words "two years, or with fine which may extend to thirty thousand rupees, or with both" shall be substituted.
- (E) In section 69, for sub-section (4), the following sub-section shall be substituted, namely:-
 - "(4) If any passenger liable to pay the excess charge and fare mentioned in subsection (1), or the excess charge and any difference of fare mentioned in sub-section (2), fails or refuses to pay the same on a demand being made therefor, any metro railway official authorised by the metro railway administration in this behalf may apply to any Metropolitan Magistrate or, as the case may be, Judicial Magistrate of the first class, for the recovery of the sum payable as if it were a fine.".
- (F) For section 70, the following section shall be substituted, namely:-
 - "70. Needlessly interfering with means of communication in a train.— If any

passenger or any other person without reasonable and sufficient cause makes use of, or interferes with, any means provided by the metro railway administration in a metro railway for communication between passengers and metro railway official in charge of the metro railway or misuses alarm bell or emergency stop push or emergency trip system or emergency call point of the metro railway, he shall be liable to penalty which may extend to ten thousand rupees."

(G) Section 80 shall be omitted.

(H) In section 82, in sub-section (I), for the words and figures "sections 65 to 79", the words and figures "sections 65 to 68, 71 to 79" shall be substituted.

34. 2003 15 The Prevention of Money-laundering Act, 2002

In THE SCHEDULE, in PARTA,—

(i) for PARAGRAPH 21, the following PARAGRAPH shall be substituted, namely:—

"PARAGRAPH 21

Offences under the Trade Marks Act, 1999 (47 of 1999)

Section	Description of offence
103	Penalty for applying false trademarks, trade descriptions, etc.
104	Penalty for selling goods or providing services to which false trademark or false trade description is applied.
105	Enhanced penalty on second or subsequent conviction.
120	Punishment of abetment in India of acts done out of India.";

(ii) for PARAGRAPH 22, the following PARAGRAPH shall be substituted, namely:—

"PARAGRAPH 22

Offences under the Information Technology Act, 2000

(21 of 2000)

Section Description of offence

75 Act to apply for offence or contravention committed outside India.":

- (iii) PARAGRAPH 25 shall be omitted;
- (iv) PARAGRAPH 27 shall be omitted.

37.

2006 41

The Cantonments Act, 2006

namely:-

(1)	(2)	(3)	(4)	(5)
35.	2006	34	The Food Safety and Standards Act, 2006	(A) In section 59, in clause (i), for the words "imprisonment for a term which may extend to six months and also with fine which may extend to one lakh rupees", the words "imprisonment for a term which may extend to three months and also with fine which may extend to three lakh rupees" shall be substituted.
				(<i>B</i>) In section 61,—
				(i) in the marginal heading, for the word "Punishment", the word "Penalty" shall be substituted;
				(ii) for the words "punishable with imprisonment for a term which may extend to three months and also with fine which may extend to two lakh rupees", the words "liable to penalty which may extend to ten lakh rupees" shall be substituted.
				(C) In section 63,—
				(i) in the marginal heading, for the word "Punishment", the word "Penalty" shall be substituted;
				(ii) for the words "punishable with imprisonment for a term which may extend to six months and also with a fine which may extend to five lakh rupees", the words "liable to penalty which may extend to ten lakh rupees" shall be substituted.
36.	2006	38	The Government Securities Act, 2006	In section 30,—
				(i) in sub-section (1), for the words "he shall be punishable with imprisonment for a term which may extend to six months, or with fine, or with both", the words "the Bank may impose a penalty not exceeding five lakh rupees or twice the amount involved in such contravention, where the amount is quantifiable, whichever is higher, and where such contravention is a continuing one, with a further penalty, which may extend to five thousand rupees for every day after first day during which the contravention continues" shall be substituted;
				(ii) sub-section (2) shall be omitted.

(A) Section 156 shall be omitted.

(B) In section 185, for sub-section (I), the following sub-section shall be substituted,

"(1) No person employed in any essential service under a Board in a

(1) (2) (3) (4)

cantonment shall, in the absence of any contract, resign without reasonable cause or absent himself from duty without proper authority and in case of such resignation or absence from duty, disciplinary proceedings shall be initiated against him in accordance with such procedure as may be prescribed.".

- (C) Section 286 shall be omitted.
- (D) For section 287, the following section shall be substituted, namely:—

"287. Arrest of persons, seizure and confiscation of things for offences under section 285.—(1) Notwithstanding anything contained in the Code of Criminal Procedure, 1973 (2 of 1974), any police officer or excise officer may, without an order from a Judicial Magistrate, and without a warrant, arrest any person who commits an offence under section 285 and may seize and detain any spirituous liquor or intoxicating drug in respect of which an offence under section 285 has been committed and any vessels or coverings in which the liquor or drug is contained.

- (2) Where a person accused of an offence under section 285 has been previously convicted of an offence under that section, an officer in charge of a police station may, with the written permission of a Judicial Magistrate, seize and detain any spirituous liquor or intoxicating drug within the cantonment or within any limits defined under that section which, at the time of the alleged commission of the subsequent offence, belonged to, or was in the possession of, such person.
- (3) The court convicting a person of an offence under section 285 may order the confiscation of the whole or any part of anything seized under sub-section (1) or sub-section (2).
- (4) Subject to the provisions of Chapter XXXIV of the Code of Criminal Procedure, 1973 (2 of 1974) anything, seized under sub-section (1) or sub-section (2) and not confiscated under sub-section (3) shall be restored to the person from whom it was taken."
- (E) In section 289, sub-section (5) shall be omitted.

(1)	(2)	(3)	(4)	(5)

(F) In section 314, in the proviso, in clause (a), the words, letter and figures "in the case of breach of any such provisions as is specified in Part B of Schedule IV," shall be omitted.

(*G*) For SCHEDULE IV, the following SCHEDULE shall be substituted, namely:—

"SCHEDULE IV

(See section 314)

Section Subject

183(1) Remaining in, or re-entering, cantonment after notice of expulsion for failure to attend hospital or dispensary.

Discharging fire-arms, etc., so as to cause danger.

300 Loitering or importuning for sexual immorality.

304(a) Remaining in, or returning to, a cantonment after notice of expulsion."

38. 2007 51 The Payment and Settlement Systems Act, 2007

(A) In section 26,—

(i) in sub-section (3), for the words "punishable with fine which may extend to ten lakh rupees in respect of each offence and if he persists in such refusal, to a further fine which may extend to twenty-five thousand rupees for every day for which the offence continues", the words and figures "liable to penalty as may be imposed in accordance with the provisions of section 30" shall be substituted;

(ii) in sub-section (6), for the words "punishable with fine which may extend to ten lakh rupees and where a contravention or default is a continuing one, with a further fine which may extend to twenty-five thousand rupees for every day, after the first during which the contravention or default continues", the words and figures "liable to penalty as may be imposed in accordance with the provisions of section 30" shall be substituted.

(B) In section 30,—

(a) in the marginal heading, for the word "fines", the word "penalties" shall be substituted;

(b) in sub-section (I)—

(i) after the word, brackets and

(1) (2) (3) (4) (5)

figure "sub-section (2)", the words, brackets and figure "or subsection (3)" shall be inserted;

(ii) for the words "five lakh", the words "ten lakh" shall be substituted.

39. 2009 7 The Collection of Statistics
Act, 2008

(A) In section 9, in sub-sections (2) and (3), for the word "prosecution", the word "penalty" shall be substituted.

(*B*) For CHAPTER IV, the following CHAPTER shall be substituted, namely:—

"CHAPTER IV

PENALTIES AND ADJUDICATION

15. Penalty for neglect or refusal to supply particulars and other contraventions.— (1) Whoever fails to produce any books of account, vouchers, documents or other business records or whoever neglects or refuses to fill in and supply the particulars required in any information schedule or return given or sent to him or whoever neglects or refuses to answer any question or inquiry addressed to him as may be required under or for the purposes of any provision of this Act or whoever acts in contravention or fails to comply with any provision of this Act or any rules made thereunder or any requirement imposed under this Act, shall be liable to penalty which may extend to one thousand rupees, and in the case of a company, with a penalty which may extend to one lakh rupees.

(2) The imposition of penalty on a person or company shall not relieve him or it of the obligations under sub-section (I), and if after the expiry of fourteen days from the date of imposition of penalty, he or it still fails to give the required particulars or continues to neglect or refuse or contravene any provision of this Act or any rules made thereunder or any requirement imposed under this Act, shall be liable to a further penalty which may extend to one thousand rupees, and in the case of a company, to a further penalty which may extend to five thousand rupees, for each day after the first during which the neglect, refusal or contravention continues.

15A. Adjudicating officer.—(1) The appropriate Government may, for the purposes of determining the penalties under section 15, appoint an officer as it may deem fit, to be adjudicating officer to hold an inquiry and impose penalty in the manner, as may be prescribed:

Provided that the appropriate Government may appoint as many adjudicating officers as may be required.

(2) The adjudicating officer may summon and enforce the attendance of any person acquainted with the facts and circumstances of the case to give evidence or to produce any document, which in the opinion of the adjudicating officer, may be useful for, or relevant to, the subject-matter of the inquiry and if, on such inquiry, he is satisfied that the person concerned has failed to comply with the provisions of this Act, he may impose penalty:

Provided that no such penalty shall be imposed without giving the parties concerned a reasonable opportunity of being heard.

- 15B. Appeal.—(1) Whoever aggrieved by the order passed by the adjudicating officer under this Act, may prefer an appeal to the appellate authority, above the rank of the adjudicating officer, authorised by the appropriate Government, within thirty days from the date of receipt of order in such form and manner as may be prescribed.
- (2) An appeal may be admitted after the expiry of the period of thirty days if the appellant satisfies the appellate authority that he had sufficient cause for not preferring the appeal within that period.
- (3) The appellate authority may, after giving the parties to the appeal an opportunity of being heard, pass such order as he may think fit.
- (4) The appellate authority referred to in sub-section (1) shall dispose of the appeal within sixty days from the date of filing the appeal.
- 15C. Recovery.—Notwithstanding anything contained in this Act, if penalty imposed under this Act, is not deposited,

the amount shall be recovered as an arrear of land revenue.".

- (C) In section 33, in sub-section (2), after clause (da), the following clauses shall be inserted, namely:—
 - "(db) the manner of holding inquiry and imposing penalty under sub-section (I) of section 15A;
 - (dc) the form and manner of preferring appeal under sub-section (1) of section 15B:".

40. 2010 1 The Legal Metrology Act, 2009

- (A) In section 25, for the words "twenty-five thousand rupees and for the second or subsequent offence, with imprisonment for a term which may extend to six months and also with fine", the words "one lakh rupees and for the second offence with fine which may extend to two lakh rupees and for the third and subsequent offence, with fine which may extend to five lakh rupees" shall be substituted.
- (B) In section 27, in the long line, for the words "twenty thousand rupees and for the second or subsequent offence with imprisonment for a term which may extend to three years or with fine or with both", the words "one lakh rupees and for the second offence with fine which may extend to two lakh rupees and for the third and subsequent offence, with fine which may extend to four lakh rupees" shall be substituted.
- (C) In section 28, for the words "ten thousand rupees and for the second or subsequent offence, with imprisonment for a term which may extend to one year, or with fine, or with both", the words "fifty thousand rupees and for the second offence with fine which may extend to one lakh rupees and for the third and subsequent offence with fine which may extend to two lakh rupees" shall be substituted.
- (D) In section 29, for the words "ten thousand rupees and, for the second or subsequent offence, with imprisonment for a term which may extend to one year, or with fine, or with both", the words "fifty thousand rupees for the second offence with fine which may extend to one lakh rupees and for the third and subsequent offence with a fine which may extend to two lakh rupees" shall be substituted.
- (E) In section 31, for the words "five thousand rupees and for the second or subsequent offence, with imprisonment for a term

which may extend to one year and also with fine", the words "twenty-five thousand rupees and for the second offence with fine which may extend to fifty thousand rupees and for the third and subsequent offence, with fine which may extend to one lakh rupees" shall be substituted.

- (F) In section 34, for the words "fine which shall not be less than two thousand rupees, but which may extend to five thousand rupees and, for the second or subsequent offence, with imprisonment for a term which shall not be less than three months but which may extend to one year, or with fine, or with both", the words "fine which may extend to twenty-five thousand rupees and for the second offence with fine which may extend to fifty thousand rupees and for the third and subsequent offence, with fine which may extend to one lakh rupees" shall be substituted.
- (G) In section 35, for the words "fine which shall not be less than two thousand rupees, but which may extend to five thousand rupees and, for the second or subsequent offence, with imprisonment for a term which shall not be less than three months but which may extend to one year, or with fine, or with both", the words "fine which may extend to twenty-five thousand rupees and for the second offence with fine which may extend to fifty thousand rupees and for the third and subsequent offence, with fine which may extend to one lakh rupees" shall be substituted.

(*H*) In section 48,—

- (a) in sub-sections (1) and (2), for the words and figures "sections 27 to 39" at both places where they occur, the words and figures "sections 27 to 39, section 41" shall be substituted;
- (b) in sub-section (3), after the words and figures "sections 33 to 37,", the word and figures "section 41," shall be inserted.".
- (A) For sections 21 and 22, the following sections shall be substituted, namely:—
 - "21. Penalties.—If a default is made in filing under section 19, the particulars of any transaction of assignment of receivables and realisation of receivables by a factor, such company and every officer of the company who is in default shall be liable to penalty which may extend to five lakh rupees and in the case of a continuing offence, with an additional penalty which

41. 2012 12 The Factoring Regulation Act, 2011

(1) (2) (3) (4)

may extend to ten thousand rupees for every day during which the default continues, to be imposed by the Reserve Bank in accordance with the provisions of subsections (2) to (4) of section 22.

- 22. Penalties for non-compliance of direction by Reserve Bank.—(1) If any factor fails to comply with any direction issued by the Reserve Bank under section 6, or fails in filing the particulars of any transaction of receivables and realisation of receivables under section 19, the Reserve Bank may impose a penalty which may extend to five lakh rupees and in the case of a continuing failure, with an additional penalty which may extend to ten thousand rupees for every day during which the default continues.
- (2) For the purpose of adjudging the penalty under sub-section (1) or section 21, the Reserve Bank shall serve notice on the factor requiring it to show cause why the amount specified in the notice should not be imposed and a reasonable opportunity of being heard shall also be given to such factor.
- (3) Any penalty imposed by the Reserve Bank under this section or section 21 shall be payable within a period of fourteen days from the date on which notice issued by the Reserve Bank demanding payment of the sum is served on the factor and in the event of failure of the factor to pay the sum within such period, may be levied on a direction made by the principal civil court having jurisdiction in the area where the registered office of the factor is situated; or, in the case of a factor incorporated outside India, where its principal place of business in India is situated:

Provided that no such direction shall be made except on an application made to the court by the Reserve Bank or any officer authorised by Reserve Bank in this behalf:

Provided further that the Reserve Bank may also recover the amount of penalty by debiting the current account, if any, of the defaulter or by liquidating the securities held to the credit of the defaulter.

72	THE GAZETTE OF INDIA EXTRAORDINARY [PART II—Sec. 1]				
(1)	(2)	(3)	(4)	(5)	
				(4) The court which makes a direction under sub-section (3) shall issue a certificate specifying the sum payable by the factor and every such certificate shall be enforceable in the same manner as if it were a decree made by the court in a civil suit.".	
42.	2016	18	The Aadhaar (Targeted Delivery of Financial and Other Subsidies, Benefits and Services) Act, 2016	In section 41, for the words "punishable with imprisonment which may extend to one year or with a fine which may extend to ten thousand rupees or, in the case of a company, with a fine which may extend to one lakh rupees or with both", the words "liable to penalty which may extend to one lakh rupees, or in the case of a company, with penalty which may extend to ten lakh rupees" shall be substituted.	

DR. REETA VASISHTA, Secretary to the Govt. of India.

ಕರ್ನಾಟಕ ರಾಜ್ಯಪಾಲರ ಆದೇಶಾನುಸಾರ ಮತ್ತು ಅವರ ಹೆಸರಿನಲ್ಲಿ

(ಡಿ.ಬಿ. ಜನಾರ್ಧನ) ಸಹಾಯಕ ಪ್ರಾರೂಪಕಾರ ಮತ್ತು ಪದನಿಮಿತ್ತ ಸರ್ಕಾರದ ಉಪ ಕಾರ್ಯದರ್ಶಿ ಸಂಸದೀಯ ವ್ಯವಹಾರಗಳು ಮತ್ತು ಶಾಸನ ರಚನೆ ಇಲಾಖೆ

PR-50

ಸಂಸದೀಯ ವ್ಯವಹಾರಗಳು ಮತ್ತು ಶಾಸನ ರಚನೆ ಇಲಾಖೆ ಅಧಿಸೂಚನೆ

ಸಂಖ್ಯೆ: ಸಂವ್ಯಶಾಇ 27 ಕೇಶಾಪ್ರ 2023

ಬೆಂಗಳೂರು, ದಿನಾಂಕ:19.08.2023.

ದಿನಾಂಕ: 11.08.2023 ರಂದು ಭಾರತ ಸರ್ಕಾರದ ಗೆಜೆಟ್ನ ವಿಶೇಷ ಸಂಚಿಕೆಯ Part-II-Section-1 ರಲ್ಲಿ ಪ್ರಕಟವಾದ THE GOVERNMENT OF NATIONAL CAPITAL TERRITORY OF DELHI (AMENDMENT) ACT, 2023 (NO. 19 OF 2023) ಅನ್ನು ಸಾರ್ವಜನಿಕರ ಮಾಹಿತಿಗಾಗಿ ಕರ್ನಾಟಕ ರಾಜ್ಯಪತ್ರದಲ್ಲಿ ಮರು ಪ್ರಕಟಿಸಲಾಗಿದೆ,-



सी.जी.-डी.एल.-अ.-12082023-24804**6** CG-DL-E-12082023-248046

असाधारण

EXTRAORDINARY

भाग II — खण्ड 1

PART II — Section 1

प्राधिकार से प्रकाशित

PUBLISHED BY AUTHORITY

नई दिल्ली, शुक्रवार, अगस्त 11, 2023/ श्रावण 20, 1945 (शक) सं॰ 22] NEW DELHI, FRIDAY, AUGUST 11, 2023/SRAVANA 20, 1945 (SAKA) No. 22]

इस भाग में भिन्न पृष्ठ संख्या दी जाती है जिससे कि यह अलग संकलन के रूप में रखा जा सके।

Separate paging is given to this Part in order that it may be filed as a separate compilation.

MINISTRY OF LAW AND JUSTICE (Legislative Department)

New Delhi, the 11th August, 2023/Sravana 20, 1945 (Saka)

The following Act of Parliament received the assent of the President on the 11th August, 2023 and is hereby published for general information:—

THE GOVERNMENT OF NATIONAL CAPITAL TERRITORY OF DELHI (AMENDMENT) ACT, 2023

No. 19 of 2023

[11th August, 2023.]

An Act further to amend the Government of National Capital Territory of Delhi Act, 1991.

BE it enacted by Parliament in the Seventy-fourth Year of the Republic of India as follows:-

1. (1) This Act may be called the Government of National Capital Territory of Delhi Short title and (Amendment) Act, 2023.

commencement

- (2) It shall be deemed to have come into force on the 19th day of May, 2023.
- 2. In the Government of National Capital Territory of Delhi Act, 1991 (hereinafter Amendment referred to as the principal Act), in section 2, after clause (e), the following clauses shall be inserted, namely:-

'(ea) "Lieutenant Governor" means the administrator appointed under article 239 of the Constitution for the National Capital Territory of Delhi and designated as Lieutenant Governor by the President;

1 of 1992.

(eb) "Minister" means a member of the Council of Ministers referred to in clause (4) of article 239AA of the Constitution, by whatever name called and includes a Deputy Minister;'.

Amendment of section 41.

- 3. In section 41 of the principal Act,—
- (A) in the marginal heading, for the words "act in his discretion", the words "act in his sole discretion" shall be substituted:
 - (B) in sub-section (1),—
 - (a) in the opening paragraph, for the words "act in his discretion", the words "act in his sole discretion" shall be substituted;
 - (b) in clause (ii), the word "; or" shall be inserted at the end;
 - (c) after clause (ii), the following clause shall be inserted, namely:—
 - "(iii) in discharge of his functions under Part IV-A of this Act.";
- (C) in sub-section (2), for the words "not a matter as respects", the words "not a matter in respect of " shall be substituted.

Insertion of new Part IV-A.

4. In the principal Act, after Part IV, the following Part shall be inserted, namely:—

'PART IV - A

PROVISIONS RELATING TO THE MAINTENANCE OF THE DEMOCRATIC AND ADMINISTRATIVE BALANCE IN THE GOVERNANCE OF NATIONAL CAPITAL TERRITORY OF DELHI

Definitions.

- 45A. In this Part, unless the context otherwise requires,—
- (a) "All India Services" means any service created under the All India Services Act, 1951, except the Indian Police Service; 61 o

61 of 1951.

- (b) "Authority" means the National Capital Civil Service Authority constituted under sub-section (1) of section 45E;
- (c) "Chairperson" means the Chairperson of the Authority appointed under clause (a) of sub-section (2) of section 45E;
- (*d*) "Chief Secretary" means the Chief Secretary of the Government of National Capital Territory of Delhi appointed by the Central Government;
- (e) "Council" means the Council of Ministers referred to in clause (4) of article 239AA of the Constitution;
- (f) "DANICS" means the Delhi, Andaman and Nicobar, Lakshadweep, Daman and Diu and Dadra and Nagar Haveli (Civil) Services;
- (g) "Delhi Subordinate Services Selection Board" means the Delhi Subordinate Services Selection Board constituted by the Government of National Capital Territory of Delhi through its Resolution No. F-3(7)/93-S.III, dated 4th October, 1996 read with Resolution F. 3(24)/DSSSB/2008-S.III/1764, dated 12th May, 2008;
- (h) "Department" means a Department or office specified in the Schedule to the Business of Delhi (Allocation) Rules, 1993;

- (i) "Group 'A' officers" means the officers serving in the affairs of the Government of National Capital Territory of Delhi—
 - (a) belonging to All India Services, except the officers of the Indian Police Service;
 - (b) who are classified as Group 'A' officers, under rule 4 of the Central Civil Services (Classification, Control and Appeal) Rules, 1965,

but shall not include the officers who are serving in connection with any subject matter, whether fully or in part connected with Entries 1, 2 and 18 of List II of the Seventh Schedule to the Constitution, and Entries 64, 65 and 66 of List II of the Seventh Schedule to the Constitution insofar as they relate to Entries 1, 2 and 18 or any other subject matter which is connected therewith or incidental thereto;

- (*j*) "Group 'B' officials" means the Group 'B' officials, as such classified under rule 4 of the Central Civil Services (Classification, Control and Appeal) Rules, 1965, but shall not include the officials who are serving in connection with any subject matter, whether fully or in part connected with Entries 1, 2 and 18 of List II of the Seventh Schedule to the Constitution, and Entries 64, 65 and 66 of List II of the Seventh Schedule to the Constitution insofar as they relate to Entries 1, 2 and 18 or any other subject matter which is connected therewith or incidental thereto;
- (k) "Group 'C' officials" means Group 'C' officials as such classified under rule 4 of the Central Civil Services (Classification, Control and Appeal) Rules, 1965, but shall not include the officials who are serving in connection with any subject matter, whether fully or in part connected with Entries 1, 2 and 18 of List II of the Seventh Schedule to the Constitution, and Entries 64, 65 and 66 of List II of the Seventh Schedule to the Constitution insofar as they relate to Entries 1, 2 and 18 or any other subject matter which is connected therewith or incidental thereto:
- (*l*) "National Capital Territory of Delhi" means the Union territory of Delhi as defined in clause (1) of article 239AA of the Constitution;
- (m) "Member" means a member of the Authority and includes the Chairperson;
- (*n*) "Principal Home Secretary" means the Additional Chief Secretary or Principal Secretary or Secretary, as the case may be, who is Head of the Home Department of the Government of National Capital Territory of Delhi; and
- (*o*) "Secretary" means the Additional Chief Secretary or Principal Secretary or Secretary, as the case may be, who is Head of the concerned Department of the Government of National Capital Territory of Delhi.
- 45B. (1) The Union Public Service Commission shall be the Public Service Commission for Group 'A' and Group 'B' gazetted posts in the National Capital Territory of Delhi.

Public Service Commissions for National Capital Territory of Delhi.

(2) The Delhi Subordinate Services Selection Board shall be the recruitment agency for appointment to the Group 'B' non-gazetted posts and Group 'C' posts in the National Capital Territory of Delhi.

Power of Central Government to make rules under this Part.

- 45C. The Central Government may make rules to provide for any one or more of the following matters, in connection with the affairs of the Government of National Capital Territory of Delhi under this Part, namely:—
 - (a) the tenure of office, salaries and allowances, provident funds, pensions, gratuities, leave of absence and other conditions of service of officers and other employees appointed or posted;
 - (b) the powers, duties and functions of officers and other employees appointed or posted;
 - (c) the qualifications of candidates for appointment to the posts and the manner of selection for the appointments;
 - (d) transfer or posting of the officers and other employees posted;
 - (e) the procedure to be followed in imposing any penalty, suspension pending departmental inquiries before the imposition of such penalty and the authority by whom such suspension or penalty may be ordered; and the officer or authority to whom an appeal or revision shall lie;
 - (f) any other matter which is incidental to or necessary for the purpose of regulating the appointment and conditions of service of persons appointed to services and posts; and
 - (g) any other matter for which, in the opinion of the Central Government, provisions are to be made by rules.
- 45D. Notwithstanding anything contained in any other law for the time being in force, any authority, board, commission or any statutory body, by whatever name it may be called, or any office bearer or member thereof, constituted or appointed by or under—
 - (a) any law made by the Parliament for the time being in force, applicable to the National Capital Territory of Delhi, shall be constituted or appointed or nominated by the President; and
 - (b) any law made by the Legislative Assembly of National Capital Territory of Delhi for the time being in force, the Authority shall recommend a panel of suitable persons for constitution or appointment or nomination by the Lieutenant Governor, in accordance with the provisions of section 45H.
- 45E. (1) There shall be an Authority to be known as the National Capital Civil Service Authority to exercise the powers conferred on, and discharge the functions assigned to it under this Part.
- (2) The Authority, referred to in sub-section (1), shall consist of the following Members, namely:—
 - (a) the Chief Minister of Government of National Capital Territory of Delhi, who shall be the Chairperson of the Authority, *ex officio*;
 - (b) the Chief Secretary of Government of National Capital Territory of Delhi, Member, ex officio; and
 - (c) the Principal Home Secretary, Government of National Capital Territory of Delhi, who shall be the Member-Secretary to the Authority, *ex officio*.
- (3) All matters required to be decided by the Authority shall be decided by majority of votes of the Members present and voting.
- (4) All recommendations of the Authority shall be authenticated by the Member-Secretary.

Power to appoint authorities, boards, commissions or statutory bodies.

Constitution of National Capital Civil Service Authority.

- (5) The head office of the Authority shall be at Delhi.
- 45F.(I) The Authority shall meet at such time and place as the Member-Secretary may decide with approval of the Chairperson of the Authority, as and when so required.

Meetings of Authority.

- (2) The Chairperson of the Authority shall preside over the meetings of the Authority.
 - (3) The quorum for the meeting of the Authority shall be of two Members.
- 45G. (1) The Central Government, in consultation with the Authority, shall determine the nature and the categories of officers and other employees required to assist the Authority in the discharge of its functions and provide the Authority with such officers and employees, as it may deem fit.

Appointment of officers and other staff of Authority.

- (2) The officers and other employees of the Authority shall discharge their duties and functions under the general superintendence and control of the Authority.
- (3) The salaries, allowances and conditions of service of the officers and other employees appointed under sub-section (1) shall be by rules made by the Central Government.
- 45H. (1) Notwithstanding anything contained in any other law for the time being in force, the Authority shall have the responsibility to recommend the transfers and postings of all Group 'A' officers and officers of DANICS serving in the affairs of the Government of National Capital Territory of Delhi but not officers serving in connection with any subject matter, either fully or in part, connected with Entries 1, 2 and 18 of List II of the Seventh Schedule to the Constitution; and Entries 64, 65 and 66 of List II of the Seventh Schedule to the Constitution insofar as they relate to Entries 1, 2 and 18 or any other subject matter which is connected therewith or incidental thereto, to the Lieutenant Governor:

Powers and functions of Authority.

Provided that Authority may, if it deems appropriate, by way of a recommendation, delegate the responsibility to any other authority of the Government of National Capital Territory of Delhi.

(2) The Authority shall have the responsibility to recommend for all matters connected with and falling under the subject of vigilance and non-vigilance matters for the purpose of initiation of disciplinary proceedings and recommend for grant of prosecution sanctions to the Competent Authorities under the relevant Constitutional or statutory provisions against all the Group 'A' officers, including the officers of the All India Services and DANICS, serving in the affairs of the Government of National Capital Territory of Delhi but not officers serving in connection with any subject matter, either fully or in part, connected with Entries 1, 2 and 18 of List II of the Seventh Schedule to the Constitution, and Entries 64, 65 and 66 of List II of the Seventh Schedule to the Constitution insofar as they relate to Entries 1, 2 and 18 or any other subject matter which is connected therewith or incidental thereto, to the Lieutenant Governor:

Provided that the Authority may, if it deems appropriate, by way of a recommendation, delegate the responsibility in respect to such officers serving in the affairs of the Government of National Capital Territory of Delhi to an officer of All India Services.

(3) The Lieutenant Governor, after the receipt of such recommendation under sub-section (1) or sub-section (2) of this section, may pass appropriate orders giving effect to the recommendation made:

Provided that the Lieutenant Governor, before passing appropriate orders on such recommendation, may ask for any relevant material regarding the Group 'A' officers, including the officers of the All India Services and DANICS, serving in the affairs of the Government of National Capital Territory of Delhi:

Provided further that in case the Lieutenant Governor differs with the recommendation made, whether based upon the material so called for or otherwise, the Lieutenant Governor may, for reasons to be recorded in writing, return the recommendation to the Authority for reconsideration by the Authority:

Provided also that in case of difference of opinion, the decision of the Lieutenant Governor shall be final.

- (4) Without prejudice to the generality of the provisions contained in sub-section (1), the Authority shall—
 - (a) make recommendations to the Lieutenant Governor for framing policies on—
 - (i) stability of tenure of posting of officers and other employees;
 - (ii) rotational transfers and postings from sensitive to non-sensitive posts and vice-versa;
 - (iii) determining suitability of officer for posting as Head of the Department;
 - (*iv*) transfers and postings of all officers and other employees serving in the affairs of the Government of National Capital Territory of Delhi;
 - (b) make policy insofar as it relates to—
 - (i) the capacity building of the officers and other employees serving in the affairs of the Government of National Capital Territory of Delhi;
 - (ii) ensuring effectiveness in public services delivery in the Government of National Capital Territory of Delhi;
 - (iii) ensuring good governance and e-governance in public administration in the Government of National Capital Territory of Delhi;
 - (iv) ensuring greater transparency in the administration of the Government of National Capital Territory of Delhi;
 - (v) ensuring the presence of a citizen centric administration in the Government of National Capital Territory of Delhi; and
 - (vi) any other matter connected therewith or incidental thereto.
- 45-I. (1) The Minister in-charge may, by means of standing orders, give such directions as he deems fit for the disposal of proposals or matters in his Department:

Provided that no such standing order shall be issued in contravention of the provisions of the Constitution or any other law for the time being in force including the provisions of this Act or the rules made thereunder or the statutory powers conferred under any law upon the officials, and financial powers delegated under the Delegation of the Financial Powers Rules, 1978.

(2) The Minister, in consultation with the Secretary concerned, may issue standing orders, concerning the matters or classes of matters which are to be brought to the personal notice of the Minister:

Provided that no such standing order shall be issued in contravention of the provisions of the Constitution or any other law for the time being in force including the

Disposal of matters by Minister.

provisions of this Act or the rules made thereunder or the statutory powers conferred under any law upon the officials, and financial powers delegated under the Delegation of the Financial Powers Rules, 1978.

- (3) The copies of directions and standing orders shall be forwarded to the Lieutenant Governor and the Chief Minister.
- (4) Notwithstanding anything contained in sub-sections (1) and (2), in addition to the proposals or matters required to be placed before the Lieutenant Governor under any law for the time being in force, the following proposals or matters shall be submitted to the Lieutenant Governor for his opinion through the Chief Minister and the Chief Secretary, before issuing any orders thereon, namely:-
 - (i) matters which affect or are likely to affect the peace and tranquility of the National Capital Territory of Delhi;
 - (ii) matters which affect or are likely to affect the interest of any particular community, the Scheduled Castes, the Scheduled Tribes and the socially and educationally backward classes or any other class of persons;
 - (iii) matters which affect the relations of the Government of National Capital Territory of Delhi with the Central Government, or any State Government, the Supreme Court of India or the High Court of Delhi and such other authorities as may be determined;
 - (iv) matters pertaining to the Secretariat of the Lieutenant Governor and personnel establishment and other matters relating to his office;
 - (v) matters on which the Lieutenant Governor is required to make an order under any law or instrument in force in his sole discretion;
 - (vi) matters specified under general or special order issued by the Lieutenant Governor under proviso to sub-section (2) of section 44;
 - (vii) petitions for mercy from persons under sentence for death and other important cases in which it is proposed to recommend any revision of a judicial sentence;
 - (viii) matters relating to summoning, prorogation and dissolution of the Legislative Assembly, removal of disqualification of voters at elections to the Legislative Assembly, Local Self Government Institutions and other matters connected therewith; and
 - (ix) any other matter of administrative importance which the Chief Minister may consider necessary.
- 45J. (1) The Secretary of the Department concerned shall be responsible for Duties of preparing and authenticating every memorandum including the Cabinet Notes, for consideration of the Council of Ministers and for obtaining approval of the Minister in-charge and the Chief Minister.

Secretaries

- (2) In case of proposals involving more than one Department, the views of all concerned Secretaries and the Ministers of all Departments consulted on the proposal shall be clearly and separately reflected in writing and signed by the Minister and the Secretary in the memorandum so as to ensure that in case of disagreement, the Council of Ministers shall take a decision.
- (3) In case the Secretary to the Council of Ministers is of the opinion that the proposal considered and decided by the Council of Ministers is not in accordance with the provisions of any law for the time being in force or any rules of procedure made under section 44, it shall be the duty of the Secretary to the Council of Ministers to bring it to the notice of the Lieutenant Governor for taking a decision thereon.

- (4) Any matter which is likely to bring the Government of National Capital Territory of Delhi into controversy with the Central Government or with any State Government, the Supreme Court of India or the High Court of Delhi and such other authorities as may be determined, the Secretary to the Department concerned shall, as soon as possible, bring it to the notice of the Lieutenant Governor, the Chief Minister and the Chief Secretary in writing.
- (5) The Chief Secretary and the Secretary to the Department concerned shall be responsible for compliance with the provisions of this Act and the rules made under section 44, and when either of them considers that there has been any material departure from the same, instead of giving effect to such departure, he shall personally bring it to the notice of the Minister in-charge, the Chief Minister and the Lieutenant Governor immediately in writing.

Power to make rules.

- 45K. (1) The Central Government may, by notification published in the Official Gazette, make rules for carrying out the provisions of this Part.
- (2) Every rule made by the Central Government under this Part shall be laid, as soon as may be after it is made, before each House of Parliament while it is in session for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rules or both Houses agree that the rules should not be made, the rules shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.'.

Power to remove difficulties.

5. (1) If any difficulty arises in giving effect to the provisions of Part IV-A of the principal Act, as inserted by the Government of National Capital Territory of Delhi (Amendment) Act, 2023, the President may, by order, published in the Official Gazette, make such provisions not inconsistent with the provisions of Part IV-A of the principal Act, as inserted by the Government of National Capital Territory of Delhi (Amendment) Act, 2023, as may appear to him to be necessary or expedient for the purposes of removing the difficulty:

Provided that no order shall be made under this section after the expiry of two years from the date of commencement of this Act.

(2) Every order made under this section shall be laid, as soon as may be after it is made, before each House of Parliament.

Repeal and savings.

- **6.** (1) The Government of National Capital Territory of Delhi (Amendment) Ordinance, 2023 is hereby repealed.
 - Ord. 1 of 2023
- (2) Notwithstanding such repeal, anything done or any action taken under the principal Act, as amended by the said Ordinance, shall be deemed to have been done or taken under the principal Act as amended by this Act.

DR. REETA VASISHTA,

Secretary to the Govt. of India.

ಕರ್ನಾಟಕ ರಾಜ್ಯಪಾಲರ ಆದೇಶಾನುಸಾರ ಮತ್ತು ಅವರ ಹೆಸರಿನಲ್ಲಿ

(ಡಿ.ಬಿ. ಜನಾರ್ಧನ) ಸಹಾಯಕ ಪ್ರಾರೂಪಕಾರ ಮತ್ತು ಪದನಿಮಿತ್ತ ಸರ್ಕಾರದ ಉಪ ಕಾರ್ಯದರ್ಶಿ ಸಂಸದೀಯ ವ್ಯವಹಾರಗಳು ಮತ್ತು ಶಾಸನ ರಚನೆ ಇಲಾಖೆ

PR-51

ಸಂಸದೀಯ ವ್ಯವಹಾರಗಳು ಮತ್ತು ಶಾಸನ ರಚನೆ ಇಲಾಖೆ ಅಧಿಸೂಚನೆ

ಸಂಖ್ಯೆ: ಸಂವ್ಯಶಾಇ 28 ಕೇಶಾಪ್ರ 2023

ಬೆಂಗಳೂರು, ದಿನಾಂಕ:19.08.2023.

ದಿನಾಂಕ: 11.08.2023 ರಂದು ಭಾರತ ಸರ್ಕಾರದ ಗೆಜೆಟ್ನ ವಿಶೇಷ ಸಂಚಿಕೆಯ Part-II-Section-1 ರಲ್ಲಿ ಪ್ರಕಟವಾದ THE REGISTRATION OF BIRTHS AND DEATHS (AMENDMENT) ACT, 2023 (NO. 20 OF 2023) ಅನ್ನು ಸಾರ್ವಜನಿಕರ ಮಾಹಿತಿಗಾಗಿ ಕರ್ನಾಟಕ ರಾಜ್ಯಪತ್ರದಲ್ಲಿ ಮರು ಪ್ರಕಟಿಸಲಾಗಿದೆ,-



सी.जी.-डी.एल.-अ.-12082023-248044 CG-DL-E-12082023-248044

असाधारण

EXTRAORDINARY

भाग II — खण्ड 1

PART II — Section 1

प्राधिकार से प्रकाशित

PUBLISHED BY AUTHORITY

सं॰ 23] नई दिल्ली, शुक्रवार, अगस्त 11, 2023/ श्रावण 20, 1945 (शक) NEW DELHI, FRIDAY, AUGUST 11, 2023/SRAVANA 20, 1945 (SAKA) No. 23]

इस भाग में भिन्न पृष्ठ संख्या दी जाती है जिससे कि यह अलग संकलन के रूप में रखा जा सके। Separate paging is given to this Part in order that it may be filed as a separate compilation.

MINISTRY OF LAW AND JUSTICE (Legislative Department)

New Delhi, the 11th August, 2023/Sravana 20, 1945 (Saka)

The following Act of Parliament received the assent of the President on the 11th August, 2023 and is hereby published for general information:—

THE REGISTRATION OF BIRTHS AND DEATHS (AMENDMENT) ACT, 2023

No. 20 of 2023

[11th August, 2023.]

An Act further to amend the Registration of Births and Deaths Act, 1969.

BE it enacted by Parliament in the Seventy-fourth Year of the Republic of India as follows:—

1. (1) This Act may be called the Registration of Births and Deaths (Amendment) Short title and Act, 2023.

commencement

- (2) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.
- 2. Throughout the Registration of Births and Deaths Act, 1969 (hereinafter referred to as the principal Act), for the word "Registrar-General", wherever it occurs, the words "Registrar General of India" shall be substituted.

Construction of references of certain expressions by certain other expressions.

18 of 1969.

Amendment of section 2.

- **3.** In section 2 of the principal Act, in sub-section (1),—
- (i) clause (a) shall be re-numbered as clause (ab) thereof, and before clause (ab) as so re-numbered, the following clauses shall be inserted, namely:—
 - '(a) "Aadhaar number" shall have the same meaning as assigned to it in clause (a) of section 2 of the Aadhaar (Targeted Delivery of Financial and Other Subsidies, Benefits and Services) Act, 2016;

18 of 2016.

(aa) "adoption" shall have the same meaning as assigned to it in clause (2) of section 2 of the Juvenile Justice (Care and Protection of Children) Act, 2015;';

2 of 2016.

- (ii) clause (b) shall be re-numbered as clause (ba) thereof, and before clause (ba) as so re-numbered, the following clause shall be inserted, namely:—
 - '(b) "database" means the organised collection of data, generally stored and accessed in electronic form from a computer network;'.

Amendment of section 3.

- 4. In section 3 of the principal Act,—
- (i) in the marginal heading, for the words "Registrar-General, India", the words "Registrar General of India" shall be substituted;
- (ii) in sub-section (1), for the words "Registrar-General, India", the words "Registrar General of India" shall be substituted;
- (iii) in sub-section (3), for the words "and submit", the words "and the database of registered births and deaths and submit" shall be substituted;
 - (iv) after sub-section (3), the following sub-sections shall be inserted, namely:—
 - "(4) The Registrar General of India shall maintain the database of registered births and deaths at the National level and it shall be obligatory upon the Chief Registrars and the Registrars to share the data of registered births and deaths to such database.
 - (5) Subject to the proviso to sub-section (1) of section 17 and with the prior approval of the Central Government, the database of registered births and deaths maintained under sub-section (4) may, on request, be made available to the authorities dealing with the preparation or maintenance of database relating to—
 - (a) population register;
 - (b) electoral rolls;
 - (c) Aadhaar number;
 - (d) ration card;
 - (e) passport;
 - (f) driving licence;
 - (g) property registration; and
 - (h) such other databases at the National level as may be notified,

and the authority shall inform the action taken, within such period as may be notified from time to time, to the Central Government:

Provided that the preparation or maintenance of database relating to electoral rolls in clause (b) shall be without prejudice to the provisions of the Representation of the People Act, 1950.".

43 of 1950.

Amendment of section 4.

- **5.** In section 4 of the principal Act, after sub-section (4), the following sub-sections shall be inserted, namely:—
 - "(5) The Chief Registrar shall take steps to register births or deaths and maintain a unified database of registered births and deaths at the State level by using the portal as approved by the Registrar General of India and it shall be obligatory upon the Registrars to share the data of registered births and deaths to such database.

(6) Subject to the proviso to sub-section (1) of section 17 and with the prior approval of the State Government, the database of registered births and deaths maintained under sub-section (5) at the State level may, on request, be made available to the authority dealing with other databases at the State level and the authority shall inform action taken, within such period as may be notified from time to time, to the State Government:

Provided that the preparation or maintenance of database relating to electoral rolls shall be without prejudice to the provisions of the Representation of the People Act, 1950.".

6. In section 7 of the principal Act,—

Amendment of section 7.

- (i) in sub-section (2),—
- (a) after the words "enter in the register maintained", the words ", electronically or otherwise," shall be inserted;
- (b) after the word and figure "section 9", the words "in respect of births and deaths which has taken place in his jurisdiction" shall be inserted;
- (ii) in sub-section (5),—
- (a) for the words "appoint Sub-Registrars and", the words "appoint Sub-Registrars and, in the event of any disaster or epidemic, appoint Special Sub-Registrars" shall be substituted;
 - (b) the following Explanation shall be inserted, namely:—

'Explanation.—For the purposes of this sub-section, the expressions,—

- (i) "disaster" shall have the same meaning as assigned to it in clause (d) of section 2 of the Disaster Management Act, 2005;
- (ii) "epidemic" means the epidemic referred to in the Epidemic Diseases Act, 1897.'.
- 7. In section 8 of the principal Act, in sub-section (1),—

Amendment of section 8.

- (i) in the opening portion,—
 - (a) for the words "orally or in writing", the words "orally or in writing with signature" shall be substituted;
- (b) after the words "several particulars", the words "including the Aadhaar number of parents and the informant, if available, in case of birth," shall be inserted;
- (ii) in clause (a), the word "male" shall be omitted;
- (iii) after clause (a), the following clauses shall be inserted, namely:—
 - "(aa) in respect of non-institutional adoption, the adoptive parents;
- (ab) in respect of birth of a child to a single parent or unwed mother from her womb, the parent;
 - (ac) in respect of birth of a child through surrogacy, the biological parent;";
- (iv) after clause (d), the following clauses shall be inserted, namely:—
- '(da) in respect of a child who is taken on adoption from the Specialised Adoption Agency, the person in-charge of the Specialised Adoption Agency.

Explanation.—For the purposes of this clause, the expression "Specialised Adoption Agency" shall have the same meaning as assigned to it in clause (57) of section 2 of the Juvenile Justice (Care and Protection of Children) Act, 2015;

43 of 1950.

53 of 2005.

3 of 1897.

(db) in respect of an orphan or abandoned child or surrendered child in any child care institution, the person in-charge or caretaker of the child care institution.

Explanation.—For the purposes of this clause, the expressions "abandoned child" or "child care institution" or "orphan" or "surrendered child" shall have the same meanings as respectively assigned to them in clauses (1), (21), (42) and (60) of section 2 of the Juvenile Justice (Care and Protection of Children) Act, 2015;

2 of 2016.

(dc) in respect of birth of a child through surrogacy in a surrogacy clinic, the person in-charge of the surrogacy clinic.

Explanation.—For the purposes of this clause, the expressions "surrogacy" and "surrogacy clinic" shall have the same meanings as respectively assigned to them in clauses (zd) and (ze) of sub-section (I) of section 2 of the Surrogacy (Regulation) Act, 2021;'.

47 of 2021.

Amendment of section 10.

- **8.** In section 10 of the principal Act, for sub-sections (2) and (3), the following sub-sections shall be substituted, namely:—
 - "(2) Where death occurs in any medical institution providing specialised treatment or general treatment, every such institution, irrespective of ownership, shall, free of charge, provide a certificate of the cause of death, including the history of illness, if any, signed by the medical practitioner who attended that person during his recent illness to the Registrar in such form as may be prescribed and provide a copy of such certificate to the nearest relative.
 - (3) In the event of death of any person occurring in any place other than medical institution, and such person was, during his recent illness, attended to by a medical practitioner, such medical practitioner shall, after the death of that person, free of charge, forthwith issue, a certificate of the cause of death, including the history of illness, if any, to the person required under this Act to give information concerning the death in such form as may be prescribed, and the person, on receipt of the certificate, shall deliver the same to the Registrar at the time of giving information of the death as required under this Act."

Amendment of section 11.

9. In section 11 of the principal Act, for the words "place of abode, and, if he cannot write", the words "place of abode and put his signature thereto, and, if he cannot write" shall be substituted.

Substitution of new section for section 12.

10. For section 12 of the principal Act, the following section shall be substituted, namely:—

Certificate of registration of births or deaths.

"12. The Registrar shall, as soon as the registration of a birth or death has been completed, but not later than seven days, give, free of charge, electronically or otherwise under his signature, to the person who gives information under section 8 or section 9, a certificate extracted from the register relating to such birth or death in such form and manner as may be prescribed.".

Amendment of section 13.

- 11. In section 13 of the principal Act, for sub-sections (2) and (3), the following sub-sections shall be substituted, namely:—
 - '(2) Any birth or death of which delayed information is given to the Registrar after thirty days but within one year of its occurrence, shall be registered only with the written permission of the District Registrar or such other authority, on payment of such fee and on production of self-attested document in such form and manner as may be prescribed.
 - (3) Any birth or death of which delayed information is given to the Registrar after one year of its occurrence, shall be registered only on an order made by a

District Magistrate or Sub-Divisional Magistrate or by an Executive Magistrate authorised by the District Magistrate, having jurisdiction over the area where the birth or death has taken place, after verifying the correctness of the birth or death and on payment of such fee as may be prescribed.

Explanation.—For the purposes of this sub-section, the expression "Executive Magistrate" means the Executive Magistrate appointed under sub-section (1) of section 20 of the Code of Criminal Procedure, 1973.'.

12. In section 16 of the principal Act, in sub-section (1), after the words "register of Amendment births and deaths", the words ", electronically or otherwise," shall be inserted.

of section 16.

13. In section 17 of the principal Act,—

Amendment of section 17.

- (i) in sub-section (1), for clause (b), the following clause shall be substituted, namely:-
 - "(b) obtain, electronically or otherwise, a certificate of birth or death from such register and issued in such form and manner as may be prescribed:

Provided that no certificate relating to any death, issued to any person, shall disclose the particulars regarding the cause of death as entered in the register.";

- (ii) in sub-section (2), for the word "extracts" occurring at both the places, the word "certificates" shall be substituted;
 - (iii) after sub-section (2), the following sub-section shall be inserted, namely:—
 - "(3) Notwithstanding anything contained in any other law for the time being in force, the certificate referred to in sub-section (2) or section 12, shall be used to prove the date and place of birth of a person who is born on or after the date of commencement of the Registration of Births and Deaths (Amendment) Act, 2023, for the purposes of—
 - (a) admission to an educational institution;
 - (b) issuance of a driving licence;
 - (c) preparation of a voter list;
 - (d) registration of a marriage;
 - (e) appointment to a post in the Central Government or State Government or a local body or public sector undertaking or in any statutory or autonomous body under the Central Government or State Government;
 - (f) issuance of a passport;
 - (g) issuance of an Aadhaar number; and
 - (h) any other purpose as may be determined by the Central Government.".
- 14. In section 18 of the principal Act, for the words "by the District Registrar", the words "in general or special order by the Chief Registrar" shall be substituted.

Amendment of section 18.

15. In section 23 of the principal Act,—

Amendment of section 23.

- (a) in sub-section (I),—
- (i) in the opening portion, for the words "Any person", the words, brackets, figure and letter "Any person, except the person specified in sub-section (1A)," shall be substituted:
- (ii) in clause (c), after the words "thumb mark", the words "or signature, as the case may be," shall be inserted;

2 of 1974.

- (iii) in the long line, for the words "fifty rupees", the words "two hundred and fifty rupees" shall be substituted;
- (b) after sub-section (1), the following sub-section shall be inserted, namely:—
- "(1A) Whoever, being a person specified in clauses (b), (c), (d), (da), (db), (dc) and (e) of sub-section (1) of section (1)
 - (a) fails without reasonable cause to give any information which it is his duty to give; or
 - (b) gives or causes to be given, for the purpose of being inserted in any register of births and deaths, any information which he knows or believes to be false regarding any of the particulars required to be known and registered; or
- (c) refuses to write his name, description and place of abode or to put his thumb mark or signature in the register as required under section 11, shall be punishable with fine which may extend to one thousand rupees in respect of each birth or death.";
- (c) in sub-section (2),—
- (i) after the words "in his jurisdiction", the words and figures "or to give a certificate to the informant under section 12" shall be inserted;
- (ii) for the words "fifty rupees", the words "two hundred and fifty rupees" shall be substituted;
- (d) for sub-section (3), the following sub-section shall be substituted, namely:—
- "(3) Any person who neglects or refuses to provide or issue a certificate as required under sub-section (2) or sub-section (3) of section 10 or any person neglects or refuses to deliver such certificate to the Registrar, shall be punishable with fine which may extend to fifty rupees.";
- (e) in sub-section (4),—
- (i) for the words "Any Person", the words, brackets, figure and letter "Any person except the person specified in sub-section (IA)" shall be substituted;
- (ii) for the words "ten rupees", the words "two hundred and fifty rupees" shall be substituted;
- (f) after sub-section (4), the following sub-section shall be inserted, namely:—
- "(4A) Any person specified in sub-section (1A), who, without reasonable cause, contravenes any provision of this Act for the contravention of which no penalty is provided for in this section, shall be punishable with fine which may extend to one thousand rupees in respect of each birth or death.";
- (g) in sub-section (5), for the words and figures "Code of Criminal Procedure, 1898", the words and figures "Code of Criminal Procedure, 1973" shall be substituted.

5 of 1898. 2 of 1974.

Amendment of section 24.

16. In section 24 of the principal Act, in sub-section (*I*), for the portion beginning with the words "proceedings under this Act" and ending with the words "fifty rupees", the following shall be substituted, namely:—

"proceedings under this Act,-

(a) accept from the person, except the person specified in sub-section (1A) of section 23, who has committed or is reasonably suspected of having committed an offence under this Act, by way of composition of such offence a sum of money not exceeding two hundred and fifty rupees;

- (b) accept from the person specified in sub-section (1A) of section 23, who has committed or is reasonably suspected of having committed an offence under this Act, by way of composition of such offence a sum of money not exceeding one thousand rupees in respect of each birth or death."
- 17. After section 25 of the principal Act, the following section shall be inserted, namely:—

Insertion of new section 25A.

"25A. (1) Any person aggrieved by any action or order of,—

Appeal.

- (i) the Registrar, may prefer an appeal to the District Registrar; or
- (ii) the District Registrar, may prefer an appeal to the Chief Registrar, within a period of thirty days from the date of such action or receipt of such order, as the case may be, in such form and manner as may be prescribed.
- (2) The District Registrar or the Chief Registrar, as the case may be, shall decide the appeal referred to in sub-section (I) within a period of ninety days from the date of preferring of such appeal.".
- **18.** In section 30 of the principal Act, in sub-section (2),—

Amendment of section 30.

- (i) for clauses (d), (e) and (f), the following clauses shall be substituted, namely:—
- "(d) the form of certificate of the cause of death under sub-sections (2) and (3) of section 10;
- (e) the form and manner in which the certificate of birth or death may be given under section 12;
- (f) the authority which may grant permission for registration of a birth or death and the form and manner of production of self-attested document under sub-section (2) of section 13;";
- (ii) after clause (g), the following clauses shall be inserted, namely:—
- "(ga) the form and manner in which the certificate of birth or death may be obtained under clause (b) of sub-section (I) of section 17;
- (gb) the form and manner of preferring an appeal under sub-section (I) of section 25A;";
- (iii) in clause (i), for the word "extracts", the word "certificates" shall be substituted.

DR. REETA VASISHTA, Secretary to the Govt. of India.

ಕರ್ನಾಟಕ ರಾಜ್ಯಪಾಲರ ಆದೇಶಾನುಸಾರ ಮತ್ತು ಅವರ ಹೆಸರಿನಲ್ಲಿ

(ಡಿ.ಬಿ. ಜನಾರ್ಧನ) ಸಹಾಯಕ ಪ್ರಾರೂಪಕಾರ ಮತ್ತು ಪದನಿಮಿತ್ತ ಸರ್ಕಾರದ ಉಪ ಕಾರ್ಯದರ್ಶಿ ಸಂಸದೀಯ ವ್ಯವಹಾರಗಳು ಮತ್ತು ಶಾಸನ ರಚನೆ ಇಲಾಖೆ

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ಸಂಸದೀಯ ವ್ಯವಹಾರಗಳು ಮತ್ತು ಶಾಸನ ರಚನೆ ಇಲಾಖೆ ಅಧಿಸೂಚನೆ

ಸಂಖ್ಯೆ: ಸಂವ್ಯಶಾಇ 29 ಕೇಶಾಪ್ರ 2023

ಬೆಂಗಳೂರು, ದಿನಾಂಕ:19.08.2023.

ದಿನಾಂಕ: 11.08.2023 ರಂದು ಭಾರತ ಸರ್ಕಾರದ ಗೆಜೆಟ್ನ ವಿಶೇಷ ಸಂಚಿಕೆಯ Part-II-Section-1 ರಲ್ಲಿ THE NATIONAL DENTAL COMMISSION ACT, 2023 (NO. 21 OF 2023) ಅನ್ನು ಸಾರ್ವಜನಿಕರ ಮಾಹಿತಿಗಾಗಿ ಕರ್ನಾಟಕ ರಾಜ್ಯಪತ್ರದಲ್ಲಿ ಮರು ಪ್ರಕಟಿಸಲಾಗಿದೆ,-



सी.जी.-डी.एल.-अ.-12082023-248042 CG-DL-E-12082023-248042

असाधारण

EXTRAORDINARY

भाग II — खण्ड 1

PART II - Section 1

प्राधिकार से प्रकाशित

PUBLISHED BY AUTHORITY

सं॰ 24] नई दिल्ली, शुक्रवार, अगस्त 11, 2023/ श्रावण 20, 1945 (शक)

No. 24] NEW DELHI, FRIDAY, AUGUST 11, 2023/SRAVANA 20, 1945 (SAKA)

इस भाग में भिन्न पृष्ठ संख्या दी जाती है जिससे कि यह अलग संकलन के रूप में रखा जा सके। Separate paging is given to this Part in order that it may be filed as a separate compilation.

MINISTRY OF LAW AND JUSTICE

(Legislative Department)

New Delhi, the 11th August, 2023/Sravana 20, 1945 (Saka)

The following Act of Parliament received the assent of the President on the 11th August, 2023 and is hereby published for general information:—

THE NATIONAL DENTAL COMMISSION ACT, 2023

No. 21 of 2023

[11th August, 2023.]

An Act to regulate the profession of dentistry in the country, to provide for quality and affordable dental education, to make accessible high quality oral healthcare and for matters connected therewith or incidental thereto.

BE it enacted by Parliament in the Seventy-fourth Year of the Republic of India as follows:—

CHAPTER I

Preliminary

- **1.** (1) This Act may be called the National Dental Commission Act, 2023.
- (2) It extends to the whole of India.

extent and commencement.

Short title

(3) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint; and different dates may be appointed for different provisions of this Act and any reference in any such provision to the commencement of this Act shall be construed as a reference to the coming into force of that provision.

Definitions.

- 2. In this Act, unless the context otherwise requires,—
- (a) "Autonomous Board" means any of the Autonomous Boards constituted under section 16;
- (b) "Chairperson" means the Chairperson of the National Dental Commission appointed under section 4;
- (c) "Commission" means the National Dental Commission constituted under section 3;
 - (d) "Council" means the Dental Advisory Council constituted under section 11;
- (e) "Dental Assessment and Rating Board" means the Board constituted under section 16;
- (f) "dental auxiliary" includes a dental hygienist or a dental mechanic or a dental operating room assistant or such other category as may be specified by the Commission;
- (g) "dental hygienist" means a person not being a dentist or a medical practitioner who scales, cleans or polishes teeth, or gives instruction in dental hygiene;
- (h) "dental institution" means any institution within or outside India which grants degrees, diplomas, certificates for certification courses or licences in dentistry and includes affiliated colleges, deemed to be Universities and institutions mentioned in the Schedule:
- (i) "dental mechanic" means a person qualified to perform laboratory work required for the prosthetic rehabilitation of dental and maxillofacial structures and orthodontic appliances;
- (j) "dental operating room assistant" means a person who assists the dentist in sterilising and handing over instruments as required by the dentist at the chair side;
 - (k) "dentist" means a person who practices dentistry;
- (1) "dentistry" includes the science, practice and research in dental and oral health, directed towards—
 - (i) facilitating healthy development of dentition, jaws and dentofacial structures;
 - (ii) prevention of oral diseases and promotion of oral health;
 - (iii) diagnosis and use of diagnostic tests, investigations and procedure to decide the normal and abnormal state or diseases of teeth, gums, jaws and related tissues necessary for the functions of the oral cavity;
 - (*iv*) performing procedures for the optimisation of dental and oral health, which may include restoration, rehabilitation, surgery or a combination thereof, to restore the functions, structural anatomy and aesthetics of the stomatognathic system and the masticatory apparatus;
 - (v) creating awareness and working knowledge of the effects of systemic health on dentition and oral cavity and to perform the duties of an active member of the healthcare team, including basic life support;
 - (vi) promoting good systemic health through diagnosis and necessary interventions related to oral health conditions; and
 - (*vii*) bringing awareness of oral health related issues of the society and of nation and to facilitate implementation of the updated policies of the Government or Government bodies in this regard;

- (m) "Ethics and Dental Registration Board" means the Board constituted under section 16;
- (n) "Fund" means the National Dental Commission Fund referred to in sub-section (1) of section 39;
- (o) "leader" means the Head of a Department or the Head of an Institute or organisation;
- (p) "licence" means a licence to practice dentistry granted under sub-section (1) of section 31;
- (q) "Member" means a Member of the Commission appointed under section 4 and includes the Chairperson thereof, or, as the case may be, a Member of the Autonomous Board referred to in section 17 and includes the President thereof;
- (r) "National Register" means the National Register for Dentists or the National Register for Dental Auxiliaries, as the case may be, maintained by the Ethics and Dental Registration Board under section 30;
- (s) "notification" means a notification published in the Official Gazette and the expression "notify" shall be construed accordingly;
 - (t) "prescribed" means prescribed by rules made under this Act;
- (u) "President" means the President of an Autonomous Board appointed under section 18;
- (v) "recognised dental qualification" means a dental qualification recognised under section 33 or section 34 or section 35, as the case may be;
- (w) "regulations" means the regulations made by the Commission under this Act;
- (x) "registered professional" means any dentist or dental auxiliary who is registered in the National Register or the State Register under section 30;
 - (y) "Schedule" means the Schedule to this Act;
- (z) "State Dental Council" means a dental council constituted under any law for the time being in force in any State or Union territory for regulating the practice and registration of practitioners of dentistry in that State or Union territory and includes a Joint Dental Council referred to in sub-section (7) of section 29;
- (za) "State Register" means the State Register for Dentists or the State Register for Dental Auxiliaries, as the case may be, maintained under any law for the time being in force in any State or Union territory for registration of dentists or dental auxiliaries, as the case may be;
- (zb) "Under-Graduate and Post-Graduate Dental Education Board" means the Board constituted under section 16;
- (zc) "University" shall have the same meaning as assigned to it in clause (f) of section 2 of the University Grants Commission Act, 1956 and includes a health University.

CHAPTER II

NATIONAL DENTAL COMMISSION

3. (1) The Central Government shall, by notification in the Official Gazette, with Constitution effect from such date as it may appoint, constitute a Commission, to be known as the of National National Dental Commission, to exercise the powers conferred upon, and to perform the functions assigned to it, under this Act.

Dental. Commission.

3 of 1956.

- (2) The Commission shall be a body corporate by the name aforesaid, having perpetual succession and a common seal, with power, subject to the provisions of this Act, to acquire, hold and dispose of property, both movable and immovable, and to contract, and shall, by the said name, sue or be sued.
 - (3) The head office of the Commission shall be at New Delhi.

Composition of Commission.

- **4.** (1) The Commission shall consist of the following persons to be appointed by the Central Government, namely:—
 - (a) a Chairperson;
 - (b) eight ex officio Members; and
 - (c) twenty-four part-time Members.
- (2) The Chairperson shall be a dentist of outstanding ability, proven administrative capacity and integrity, possessing a postgraduate degree in dentistry from any University or institutes of national importance and having experience of not less than twenty years in the field of dentistry, out of which at least ten years shall be as a leader in the area of dental education.
- (3) The following persons shall be the *ex officio* Members of the Commission, namely:—
 - (a) the President of the Under-Graduate and Post-Graduate Dental Education Board;
 - (b) the President of the Dental Assessment and Rating Board;
 - (c) the President of the Ethics and Dental Registration Board;
 - (d) the Director General of Health Services, Directorate General of Health Services, New Delhi;
 - (e) Chief of the Centre for Dental Education and Research, All India Institute of Medical Sciences, New Delhi;
 - (f) Head of the Oral Health Sciences Centre, Postgraduate Institute of Medical Education and Research, Chandigarh;
 - (g) one person, not below the rank of Joint Secretary to the Government of India, to represent the Ministry of Health and Family Welfare, to be nominated by that Ministry;
 - (h) the Chairperson, National Medical Commission or nominee from that Commission.
- (4) The following persons shall be appointed as part-time Members of the Commission, namely:—
 - (a) three Members, to be appointed from amongst persons of ability, integrity and standing, who have special knowledge and professional experience in such areas including management, law, medical ethics, health research, consumer or patient rights advocacy, science and technology and economics, in such manner as may be prescribed, for a term of four years;
 - (b) ten Members to be appointed on rotational basis from amongst the nominees of the States and Union territories under clauses (c) and (d) of sub-section (2) of section 11 in the Dental Advisory Council, in such manner as may be prescribed, for a term of two years;
 - (c) nine members to be appointed on rotational basis from amongst the nominees of the States and Union territories under clause (e) of sub-section (2) of section 11 in the Dental Advisory Council, in such manner as may be prescribed, for a term of two years;

- (d) two dental faculties, from any Central or State or Autonomous Government Institutes, doing exemplary work in the field of dental education, to be nominated by the Central Government, in such manner as may be prescribed, for a term of four years.
- **5.** (1) The Central Government shall appoint—
 - (i) the Chairperson referred to in sub-section (2) of section 4;
 - (ii) part-time Members referred to in clause (a) of sub-section (4) of section 4;
 - (iii) the Secretary referred to in section 8; and
- (*iv*) the President and Members of Autonomous Boards referred to in section 16, on the recommendation of a Search-cum-Selection Committee consisting of—
 - (a) the Cabinet Secretary—Chairperson;
 - (b) three experts, possessing outstanding qualifications and experience of not less than twenty-five years in the field of dental education, public health education and health research, to be nominated by the Central Government, in such manner as may be prescribed—Members;
 - (c) one person, possessing outstanding qualifications and experience of not less than twenty-five years in the field of management or law or economics or science and technology, to be nominated by the Central Government, in such manner as may be prescribed—Member;
 - (d) the Secretary to the Government of India in charge of the Ministry of Health and Family Welfare, to be the Convener—Member.
- (2) The Central Government shall, within one month from the date of occurrence of any vacancy, including by reason of death, resignation or removal, of the Chairperson or Member or Secretary of the Commission or the President or Member of the Autonomous Board, as the case may be, or within three months before the end of tenure of such person, make a reference to the Search-cum-Selection Committee for filling up of the vacancy.
- (3) The Search-cum-Selection Committee shall recommend a panel of at least three names for every vacancy referred to it.
- (4) The Search-cum-Selection Committee shall, before recommending any person for appointment as the Chairperson or Member or Secretary, satisfy itself that such person does not have any financial or other interest which is likely to affect prejudicially his functions as such Chairperson or Member or Secretary.
- (5) No appointment of the Chairperson or Member or Secretary of the Commission or the President or Member of the Autonomous Board, as the case may be, shall be invalid merely by reason of any vacancy or absence of a Member in the Search-cum-Selection Committee.
- (6) Subject to the provisions of sub-sections (2) to (5), the Search-cum-Selection Committee may regulate its own procedure.
- **6.** (1) The Chairperson appointed under sub-section (2) of section 4, and Member of the Commission appointed or nominated under clauses (a) and (d) of sub-section (4) of section 4 shall not be eligible for any extension of term beyond four years or for reappointment and such person shall cease to hold office after attaining the age of seventy years.
 - service of Chairperson and Members.

Term of office and

conditions of

- (2) The term of office of an *ex officio* Member shall continue as long as he holds the office by virtue of which he is such Member.
- (3) Where a Member, other than an *ex officio* Member, is absent from three consecutive ordinary meetings of the Commission and the cause of such absence is not attributable to

Search-cum-Selection Committee for appointment of Chairperson and Members. any valid reason in the opinion of the Commission, such Member shall be deemed to have vacated the seat.

- (4) The salaries and allowances payable to, and other terms and conditions of service of, the Chairperson and Members appointed or nominated under clauses (a) and (d) of sub-section (4) of section 4, other than an ex officio Member, shall be such as may be prescribed.
 - (5) The Chairperson or a Member or Secretary of the Commission may,—
 - (a) relinquish his office by giving in writing to the Central Government a notice of not less than three months; or
 - (b) be removed from his office in accordance with the provisions of section 7:

Provided that such person may be relieved from duties earlier than three months or be allowed to continue beyond three months until a successor is appointed, if the Central Government so decides.

- (6) The Chairperson and every Member of the Commission shall make declaration of his assets and liabilities at the time of entering upon his office and at the time of demitting his office and also declare his professional and commercial engagement or involvement in such form and manner as may be prescribed, and such declaration shall be published on the website of the Commission.
- (7) The Chairperson or a Member appointed or nominated under clauses (a) and (d) of sub-section (4) of section 4 or the Secretary, ceasing to hold office as such, shall not accept, for a period of two years from the date of demitting such office, any employment, in any capacity, including as a consultant or an expert, in any private dental institution, whose matter has been dealt with by such person, directly or indirectly:

Provided that nothing herein shall be construed as preventing such person from accepting an employment in a body or institution, including dental institution, controlled or maintained by the Central Government or a State Government:

Provided further that nothing herein shall prevent the Central Government from permitting the Chairperson or Member or Secretary of the Commission to accept any employment in any capacity, including as a consultant or expert in any private dental institution whose matter has been dealt with by such Chairperson or Member or Secretary.

- 7. (1) The Central Government may, by order, remove from office the Chairperson or any other Member, who—
 - (a) has been adjudged an insolvent; or
 - (b) has been convicted of an offence which, in the opinion of the Central Government, involves moral turpitude; or
 - (c) has become physically or mentally incapable of acting as a Member; or
 - (d) is of unsound mind and stands so declared by a competent court; or
 - (e) has acquired such financial or other interest as is likely to affect prejudicially his functions as a Member; or
 - (f) has so abused his position as to render his continuance in office prejudicial to public interest.
- (2) No Member shall be removed under clauses (*e*) and (*f*) of sub-section (*I*) unless he has been given a reasonable opportunity of being heard in the matter.
- **8.** (1) There shall be a Secretariat for the Commission to be headed by a Secretary, to be appointed by the Central Government in accordance with the provisions of section 5.
- (2) The Secretary of the Commission shall be a person of proven administrative capacity and integrity, possessing such qualifications and experience as may be prescribed.
- (3) The Secretary shall be appointed by the Central Government for a term of four years and shall not be eligible for any extension or reappointment.

Removal of Chairperson and Member of Commission.

Appointment of Secretary, experts, professionals, officers and other employees of Commission.

- (4) The Secretary shall also be the Member Secretary of each of the Autonomous Boards constituted under section 16.
- (5) The Secretary shall discharge such functions of the Commission, and of each of the Autonomous Boards constituted under section 16, as may be specified by regulations.
- (6) The Commission may, for the efficient discharge of its functions under this Act, appoint such officers and other employees of the Commission, other than Secretary, as it considers necessary, against the posts created by the Central Government on the recommendation of the Commission.
- (7) The salaries and allowances payable to, and other terms and conditions of service of the Secretary, officers and other employees of the Commission shall be such as may be prescribed.
- (8) The Commission may engage, in accordance with the procedure specified by regulations, such number of experts, consultants and professionals of integrity and outstanding ability, who have special knowledge and experience in such fields, including dental education, public health, management, health economics, quality assurance, patient advocacy, health research, science and technology, administration, finance, accounts and law, as it deems necessary, to assist the Commission in the discharge of its functions under this Act:

Provided that the Commission may, to facilitate global mobility and employability of registered professionals, invite such number of experts and domain specialists from a foreign country, as it deems necessary, who have special knowledge of dental curriculum, practical training and pattern of examination including licentiate examination of that country, to the meetings of the Commission, in such manner as may be specified by regulations.

9. (I) The Commission shall meet at least once every quarter at such time and place as may be appointed by the Chairperson.

Meetings, etc., of Commission.

- (2) The Chairperson shall preside at the meeting of the Commission and if, for any reason, the Chairperson is unable to attend the meeting of the Commission, any other Member, being the President of an Autonomous Board, nominated by the Chairperson, shall preside at the meeting.
- (3) Unless the procedure to be followed at the meetings of the Commission is otherwise provided by regulations, one-half of the total number of Members of the Commission including the Chairperson shall constitute the quorum and all the acts of the Commission shall be decided by a majority of the members present and voting and in the event of equality of votes, the Chairperson, or in his absence, the President of the Autonomous Board nominated under sub-section (2), shall have the casting vote.
- (4) The general superintendence, direction and control of the administration of the Commission shall vest in the Chairperson.
- (5) No act done by the Commission shall be questioned on the ground of the existence of a vacancy in, or a defect in the constitution of, the Commission.
- **10.** (*I*) The Commission shall, for ensuring coordinated and integrated development of education and maintenance of the standards of delivery of services, take all such steps, as it may think fit, and revise the same periodically, as may be specified by regulations.

Powers and functions of Commission.

- (2) The Commission shall perform the following functions, namely:—
- (a) lay down policies and regulate standards for the governance of dental education, examination and training and make necessary regulations in this behalf;
- (b) promote adoption of additional degrees or diplomas, higher qualifications, including certification courses and development of soft skills for advancement of career of the dentists and dental auxiliaries;

- (c) regulate dental institutions, dental researches, dentists and dental auxiliaries and make necessary regulations in this behalf;
- (d) ensure that all admissions to undergraduate dental course, namely, Bachelor of Dental Surgery in all dental institutions which are governed by the provisions of this Act or any other law for the time being in force, shall be through National Eligibility-cum-Entrance Test conducted under section 14 of the National Medical Commission Act, 2019:

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- (e) to identify and regulate any other category of dental auxiliaries;
- (f) to collaborate with industry and institutions for use of cutting-edge technology and hybrid education to drive innovation and research in the field of dental education and examinations and make necessary regulations in this behalf;
- (g) assess the requirements in dental healthcare, including human resources for dental health, career progression of dentists and dental auxiliaries and healthcare infrastructure and develop a road map for meeting such requirements;
- (h) promote, coordinate and frame guidelines and lay down policies by making necessary regulations for the proper functioning of the Commission, the Autonomous Boards, the Dental Advisory Council, the State Dental Councils and the Joint Dental Councils:
 - (i) ensure coordination among the Autonomous Boards;
- (*j*) take such measures, as may be necessary, to ensure compliance by the State Dental Councils of the guidelines framed and regulations made under this Act for their effective functioning under this Act;
- (k) exercise appellate jurisdiction with respect to the decisions of the Autonomous Boards;
 - (l) promote preventive dental care services;
- (m) lay down policies and codes to ensure observance of professional ethics in dental profession and to promote ethical conduct during the provision of care by dentists;
- (n) frame guidelines for determination of fees and all other charges in respect of fifty per cent. of seats in private dental institutions and deemed to be Universities which are governed under the provisions of this Act;
- (o) take measures to enhance skills and competency of registered professionals for facilitating global mobility;
- (p) exercise such other powers and perform such other functions as may be prescribed.
- (3) The Commission may delegate such of its functions (except the power to make regulations) to the Autonomous Boards as it may deem necessary.
- (4) The Commission may give such directions, as may deem necessary, to a State Council for carrying out all or any of the provisions of this Act and the State Council shall comply with such directions.
- (5) All orders and decisions of the Commission shall be authenticated by the signature of the Secretary.
- (6) The Commission may delegate such of its powers of administrative and financial matters, as it deems fit, to the Secretary.
- (7) The Commission may constitute sub-committees and delegate such of its powers to such sub-committees as may be necessary to enable them to accomplish specific tasks.

composition

Advisory

Council.

CHAPTER III

DENTAL ADVISORY COUNCIL

- 11. (1) The Central Government shall constitute an advisory body to be known as the Constitution Dental Advisory Council.
 - (2) The Council shall consist of a Chairperson and the following members, namely: of Dental
 - (a) the Chairperson of the Commission shall be the ex officio Chairperson of the Council:
 - (b) every ex officio member of the Commission appointed under sub-section (3) of section 4, and the part-time members appointed under clauses (a) and (d) of sub-section (4) of that section, shall be the *ex officio* members of the Council;
 - (c) one member to represent each State, who is the Dean or Principal of a Government Dental College in that State, to be nominated by that State Government:

Provided that the term of office of the member shall continue as long as he holds the post by virtue of which he has been nominated, subject to a maximum of four years;

(d) one member to represent each Union territory, who is the Dean or Principal of a Government Dental College in that Union territory, to be nominated by the Ministry of Home Affairs in the Government of India:

Provided that the term of office of the member shall continue as long as he holds the post by virtue of which he has been nominated, subject to a maximum of four years:

Provided further that if there is no Government Dental College in any State or Union territory, the State Government or in case of a Union territory, the Ministry of Home Affairs shall nominate a member possessing such dental qualifications and experience, as may be prescribed;

(e) one member to represent each State and each Union territory from amongst the members of the State Dental Council, to be nominated by that State Dental Council for a term of four years and shall not be eligible for any extension or reappointment:

Provided that if such member ceases to be a member of the State Dental Council before the completion of his four year term, then, he shall cease to be a member of the Dental Advisory Council as well, and in such an eventuality, the State Dental Council shall nominate another member to represent that State or Union territory, as the case may be, for the remaining term of office of the member in whose place he is so nominated;

- (f) the Chairman, University Grants Commission;
- (g) the Director, National Assessment and Accreditation Council;
- (h) three members to be nominated by the Central Government from amongst persons holding the post of Director in the institutions of national importance or Vice-Chancellor in the Universities:
- (i) Director General of Indian Council for Medical Research or his nominee not below the rank of Scientist 'H':
 - (j) Director General Dental Services, Army Dental Corps or nominee.
- **12.** (1) The Council shall be the primary platform through which the States and Union Functions of territories may put forth their views and concerns before the Commission and help in shaping the overall agenda, policy and action relating to dental education and training.

Dental Advisory Council.

- (2) The Council shall advise the Commission on measures to determine and maintain, and to coordinate maintenance of, the minimum standards in all matters relating to dental education, training and research.
- (3) The Council shall advise the Commission on measures to enhance equitable access to dental education and uniform system of examination.

Meetings of Dental Advisory Council.

- **13.** (1) The Council shall meet at least once a year at such time and place as may be decided by the Chairperson.
- (2) The Chairperson shall preside at the meeting of the Council and if for any reason the Chairperson is unable to attend a meeting of the Council, such other member as nominated by the Chairperson shall preside over the meeting.
- (3) Unless the procedure is otherwise provided by regulations, fifty per cent. of the members of the Council including the Chairperson shall form the quorum and all acts of the Council shall be decided by a majority of the members present and voting.

CHAPTER IV

NATIONAL EXAMINATION

National Eligibility-cum-Entrance Test. **14.** (1) All admissions to the undergraduate course of Bachelor of Dental Surgery in all dental institutions which are governed by the provisions of this Act or any other law for the time being in force shall be through National Eligibility-cum-Entrance Test conducted under section 14 of the National Medical Commission Act, 2019.

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- (2) Till such time as the National Exit Test (Dental) becomes operational under section 15, all admissions to the postgraduate courses of Master of Dental Surgery in all dental institutions which are governed by the provisions of this Act or any other law for the time being in force shall be through National Eligibility-cum-Entrance Test (MDS) to be conducted by the designated authority appointed by the Central Government.
- (3) The Commission shall specify by regulations the manner of conducting common counselling by the designated authority for admission to undergraduate and postgraduate seats in all the dental institutions which are governed by the provisions of this Act:

Provided that the designated authority appointed or nominated by the Central Government shall conduct the common counselling for all India seats and the designated authority of the State Government shall conduct the common counselling for the seats at the State level.

CHAPTER V

NATIONAL EXIT TEST (DENTAL)

National Exit Test (Dental).

- **15.** (*I*) A common final year undergraduate dental examination, to be known as the 'National Exit Test (Dental)' shall be held for granting licence to practice dentistry as dentists and for enrolment in the State Register or the National Register, as the case may be.
- (2) The Commission shall conduct the National Exit Test (Dental) through such designated authority and in such manner as may be specified by regulations.
- (3) The National Exit Test (Dental) shall become operational on such date, within three years from the date of commencement of this Act, as may be appointed by the Central Government, by notification.
- (4) Any person with a foreign dental qualification shall have to qualify National Exit Test (Dental) for the purpose of obtaining licence to practice dentistry as dentist and for enrolment in the State Register or the National Register, as the case may be, in such manner as may be specified by regulations.
- (5) The National Exit Test (Dental) shall be the basis for admission to the postgraduate dental education in dental institutions which are governed under the provisions of this Act

or under any other law for the time being in force and shall be done in such manner as may be specified by regulations.

- (6) The Commission shall specify by regulations the manner of conducting common counselling by the designated authority for admission to the postgraduate seats in the dental institutions referred to in sub-section (5).
- (7) The designated authority of the Central Government shall conduct the common counselling for All India seats and the designated authority of the State Government shall conduct the common counselling for the seats at the State level.

CHAPTER VI

Autonomous Boards

16. (1) The Central Government shall, by notification, constitute the following Autonomous Boards, under the overall supervision of the Commission, to perform the functions assigned to such Boards under this Act, namely:—

Constitution Autonomous Boards.

- (a) the Under-Graduate and Post-Graduate Dental Education Board:
- (b) the Dental Assessment and Rating Board; and
- (c) the Ethics and Dental Registration Board.
- (2) Every Autonomous Board shall carry out its functions under this Act in such manner as may be specified by regulations.
- 17. (1) Every Autonomous Board shall consist of a President, not more than two whole-time Members and not more than two part-time Members.

Composition of Autonomous Boards.

- (2) The President of each Autonomous Board, two whole-time Members and one part-time Member of the Under-Graduate and Post-Graduate Dental Education Board, and one whole-time Member and one part-time Member of the Dental Assessment and Rating Board and of the Ethics and Dental Registration Board, shall be persons of outstanding ability, proven administrative capacity and integrity, possessing a postgraduate degree in any discipline of dentistry from any University and having hands-on clinical experience of not less than fifteen years, out of which at least seven years shall be as a leader in the area of dental education.
- (3) The second whole-time Member of the Dental Assessment and Rating Board shall be a person of outstanding ability and integrity, possessing a postgraduate degree in any of the disciplines of management, quality assurance, law or science and technology from any University, having experience of not less than fifteen years in such field, out of which at least seven years shall be as a leader.
- (4) The second whole-time Member of the Ethics and Dental Registration Board shall be a person of outstanding ability who has demonstrated public record of work on dental or medical ethics or a person of outstanding ability possessing a postgraduate degree in any of the disciplines of quality assurance, public health, law or patient advocacy from any University and having experience of not less than fifteen years in such field, out of which at least seven years shall be as a leader.
- (5) The second part-time Member of the Under-Graduate and Post-Graduate Dental Education Board, the Dental Assessment and Rating Board and the Ethics and Dental Registration Board shall be chosen from amongst the Members appointed under clause (c) of sub-section (4) of section 4 in such manner as may be prescribed.
- 18. The Central Government shall appoint the President and Members of the Search-cum-Autonomous Boards, except Members referred to in sub-section (5) of section 17, on the recommendations made by the Search-cum-Selection Committee constituted under section 5 in accordance with the procedure specified in that section.

Selection Committee for appointment of President and Members

Term of office and conditions of service of President and Members. **19.** (*I*) The President and Members (other than part-time Members) of each Autonomous Board shall hold the office for a term not exceeding four years and shall not be eligible for any extension or reappointment:

Provided that part-time Members of each Autonomous Board shall hold the office for a term of two years:

Provided further that the President or a Member shall cease to hold office after attaining the age of seventy years.

(2) The salaries and allowances payable to, and other terms and conditions of service of the President and Members (other than part-time Members) of an Autonomous Board shall be such as may be prescribed:

Provided that part-time Members of each Autonomous Board shall be entitled for such allowances as may be prescribed.

(3) The provisions of sub-sections (3), (5), (6) and (7) of section 6 relating to other terms and conditions of service of, and section 7 relating to removal from the office of, the Chairperson and Members of the Commission shall also be applicable to the President and Members of the Autonomous Boards.

Advisory committees of experts.

20. (*I*) Each Autonomous Board, except the Ethics and Dental Registration Board, shall be assisted by such advisory committees of experts as may be constituted by the Commission for the efficient discharge of the functions of such Boards under this Act:

Provided that the advisory committee for the Under-Graduate and Post-Graduate Dental Education Board shall also have at least one member from amongst personnel of each category of the dental auxiliaries to be nominated by the Chairperson of the Commission, in such manner as may be specified by regulations.

(2) The Ethics and Dental Registration Board shall be assisted by such ethics committees of experts as may be constituted by the Commission for the efficient discharge of the functions of that Board under this Act.

Staff of Autonomous Boards. 21. The experts, consultants, professionals, officers and other employees appointed under section 8 shall be made available to the Autonomous Boards in such number, and in such manner, as may be specified by regulations by the Commission:

Provided that the experts and domain specialists from foreign countries invited by the Commission under sub-section (8) of section 8 shall also be made available to the Autonomous Boards in such number and manner, as may be specified by regulations.

Meetings, etc., of Autonomous Boards.

- **22.** (1) Every Autonomous Board shall meet at least once every month, or earlier, as the case may be, at such time and place as it may appoint.
- (2) All decisions of the Autonomous Boards shall be made by majority of votes of the President and Members.
- (3) Subject to the provisions of section 28, a person who is aggrieved by any decision of an Autonomous Board may prefer an appeal to the Commission against such decision within thirty days of the communication of such decision; and the Commission shall, after giving an opportunity of being heard, dispose of the appeal within a period of sixty days from the date of such appeal:

Provided that the President of the concerned Board shall not attend proceedings of the hearing of the appeal made against the decision of his Board.

Powers of Autonomous Boards and delegation of powers. **23.** (1) The President of each Autonomous Board shall have such administrative and financial powers as may be delegated to it by the Commission to enable such Board to function efficiently.

- (2) The President of an Autonomous Board may further delegate any of his powers to a Member or an officer of that Board, and such person shall exercise his powers subject to the general control, supervision and direction of the President.
- **24.** (1) The Under-Graduate and Post-Graduate Dental Education Board shall perform the following functions, namely:
 - (a) determine minimum requirements and standards of dental education at undergraduate level and postgraduate level for dentists and dental auxiliaries in accordance with the regulations made under this Act, and oversee all aspects relating thereto;
 - (b) develop competency based dynamic curriculum at undergraduate level and postgraduate level for dentists and dental auxiliaries for addressing the needs of basic dental care services, including public dentistry and community dental care, in accordance with the provisions of regulations made under this Act with a view to develop appropriate skill, knowledge, attitude, values and ethics to provide dental care, impart dental education and conduct dental research;
 - (c) frame guidelines for setting up of dental institutions for imparting undergraduate courses and postgraduate courses for dentists and dental auxiliaries, having regard to the needs of the country and the global norms, in accordance with the regulations made under this Act;
 - (d) determine the minimum requirements and standards for conducting courses and examinations at undergraduate level and postgraduate level for dentists and dental auxiliaries in dental institutions, having regard to the needs of creativity at local levels, including designing of some courses by individual institutions, in accordance with provisions of the regulations made under this Act;
 - (e) determine standards and norms for infrastructure, faculty and quality of education in dental institutions providing undergraduate and postgraduate dental education for dentists and dental auxiliaries in accordance with provisions of the regulations made under this Act;
 - (f) facilitate development and training of faculty members teaching undergraduate courses for dentists and dental auxiliaries;
 - (g) facilitate research and the international student and faculty exchange programme relating to undergraduate and postgraduate dental education;
 - (h) specify norms for compulsory annual disclosures, electronically or otherwise, by dental institutions, in respect of their functions which have a bearing on the interest of all stakeholders, including students, faculty, State Dental Councils, Joint Dental Council, the Commission and the Central Government:
 - (i) grant recognition to a dental qualification at the undergraduate level and postgraduate level for dentists and dental auxiliaries.
- (2) The Under-Graduate and Post-Graduate Dental Education Board shall, in the discharge of its duties, make such recommendations to, and seek such directions from, the Commission, as it deems necessary.
- **25.** (1) The Dental Assessment and Rating Board shall perform the following functions, namely:—
 - (a) determine the procedure for assessing and rating the dental institutions for their compliance with the standards laid down by the Under-Graduate and Post-Graduate Dental Education Board in accordance with the regulations made under this Act:
 - (b) grant permission for establishment of a new dental institution, or to start any postgraduate course or to increase number of seats, in accordance with the provisions of section 28;

Powers and functions of Under-Graduate and Post-Graduate Dental Education Board.

Powers and functions of Dental Assessment and Rating Board. (c) conduct inspections of dental institutions using Information Technology based tools or otherwise for assessing and rating such institutions in accordance with the regulations made under this Act:

Provided that the Dental Assessment and Rating Board may, if it deems necessary, hire and authorise any other third party agency or accreditation body or persons for carrying out inspections of dental institutions for assessing and rating such institutions:

Provided further that where inspection of dental institutions is carried out by such third party agency or accreditation body or persons authorised by the Dental Assessment and Rating Board, it shall be obligatory on such institutions to provide access to such agency or person;

(d) conduct, or where it deems necessary, empanel independent rating agencies to conduct, inspection to assess and rate all dental institutions, within such period of their opening, and every year thereafter, at such time, and in such manner, as may be specified by regulations:

Provided that the Dental Assessment and Rating Board may conduct evaluation and assessment of any dental institution at any time, either directly or through any other expert having integrity and experience of dental profession and without any prior notice and assess and evaluate the performance, standards and benchmarks of such dental institution:

- (e) make available on its website or in public domain the assessment and ratings of dental institutions at regular intervals in accordance with the regulations made under this Act;
- (f) take such measures, including issuing warning, imposition of monetary penalty, reducing intake or stoppage of admissions and recommending to the Commission for withdrawal of recognition, against a dental institution for failure to maintain the minimum essential standards specified by the Under-Graduate and Post-Graduate Dental Education Board, in accordance with the regulations made under this Act:

Provided that the monetary penalty so imposed shall not be less than one-tenth, and not more than five times, of the total amount charged, by whatever name called, by such institution for one full batch of students of undergraduate course or postgraduate course, as the case may be:

Provided further that the Dental Assessment and Rating Board shall consult the Under-Graduate and Post-Graduate Dental Education Board before recommending to the Commission for withdrawal of recognition of a dental institution that fails to maintain the minimum essential standards specified by the Under-Graduate and Post-Graduate Dental Education Board.

- (2) The Dental Assessment and Rating Board shall, in the discharge of its functions, make such recommendations to, and seek such directions from, the Commission, as it deems necessary.
- **26.** (1) The Ethics and Dental Registration Board shall perform the following functions, namely:—
 - (a) maintain an online and live National Registers of all licensed dentists and dental auxiliaries in accordance with the provisions of section 30;
 - (b) regulate the standards, scope of practice, professional conduct and promote dental ethics in accordance with the regulations made under this Act:

Provided that the Ethics and Dental Registration Board shall ensure compliance of the code of professional and ethical conduct through the State Dental Council in a

Powers and functions of Ethics and Dental Registration Board. case where such State Dental Council has been conferred power to take disciplinary actions in respect of professional or ethical misconduct by dentists under respective State Acts:

- (c) approve or reject the application for registration or suspend or cancel registration or licence granted to dentists and dental auxiliaries on grounds of professional and ethical misconduct;
- (d) develop mechanisms to have continuous interaction with State Dental Councils to effectively promote and regulate the conduct of dentists and professionals;
- (e) exercise appellate jurisdiction under sub-section (5) of section 29 with respect to the actions taken by a State Dental Council.
- (2) The Ethics and Dental Registration Board shall, in the discharge of its duties, make such recommendations to, and seek such directions from, the Commission, as it deems necessary.
- **27.** (1) No person shall establish a new dental college or start any postgraduate Permission course or increase number of seats without obtaining prior permission of the Dental Assessment and Rating Board:

 One of new dental college or start any postgraduate Permission for establishment of new dental college or start any postgraduate Permission for establishment of new dental college or start any postgraduate Permission for establishment of new dental college or start any postgraduate Permission for establishment of new dental college or start any postgraduate Permission for establishment of new dental college or start any postgraduate Permission for establishment of new dental college or start any postgraduate Permission for establishment of new dental college or start any postgraduate Permission for establishment of new dental college or start any postgraduate Permission for establishment of new dental college or start any postgraduate Permission for establishment of new dental college or start any postgraduate Permission for establishment of new dental college or start any postgraduate Permission for establishment of new dental college or start any postgraduate Permission for establishment of new dental college or start any postgraduate Permission for establishment of new dental college or start any postgraduate Permission for establishment of new dental college or start any postgraduate Permission for establishment of new dental college or start any postgraduate Permission for establishment of new dental college or start any postgraduate Permission for establishment of new dental college or start any postgraduate Permission for new dental college or start any postgraduate Permission for new dental college or start any postgraduate Permission for new dental college or start any postgraduate Permission for new dental college or start any postgraduate Permission for new dental college or start any postgraduate Permission for new dental college or start any postgraduate Permission for new dental college or sta

Provided that the Dental Assessment and Rating Board shall consult the Under-Graduate and Post-Graduate Dental Education Board before approving or disapproving such permission.

- (2) For the purposes of obtaining permission under sub-section (1), a person may submit a scheme to the Dental Assessment and Rating Board in such form, containing such particulars, accompanied by such fee, and in such manner, as may be specified by regulations.
- (3) The Dental Assessment and Rating Board shall, having due regard to the criteria specified in section 28, consider the scheme received under sub-section (2) and either approve or disapprove such scheme within a period of six months from the date of such receipt:

Provided that the Dental Assessment and Rating Board shall consult the Under-Graduate and Post-Graduate Dental Education Board before approving such scheme:

Provided further that before disapproving the scheme, an opportunity to rectify the defects, if any, shall be given to the person concerned.

- (4) Where a scheme is approved under sub-section (3), such approval shall be the permission under sub-section (1) to establish new dental college or to start any postgraduate course or to increase number of seats, as the case may be.
- (5) Where a scheme is disapproved under sub-section (3), or where no decision is taken within six months of submitting a scheme under sub-section (1), the person concerned may prefer an appeal to the Commission for approval of the scheme within fifteen days of such disapproval or, as the case may be, lapse of six months, in such manner as may be specified by regulations.
- (6) The Commission shall decide the appeal received under sub-section (5) within a period of sixty days from the date of receipt of the appeal and in case the Commission approves the scheme, such approval shall be the permission under sub-section (1) to establish a new dental college or to start any postgraduate course or to increase number of seats, as the case may be, and in case the Commission disapproves the Scheme, or fails to give its decision within the specified period, the person concerned may prefer a second appeal to the Central Government within thirty days of communication of such disapproval or, as the case may be, lapse of specified period.
- (7) The Dental Assessment and Rating Board may conduct evaluation and assessment of any dental institution at any time, either directly or through any other expert having

Permission for establishment of new dental college or to start postgraduate course or to increase number of seats. integrity and experience in dental profession, without any prior notice and assess and evaluate the performance, standards and benchmarks of such dental institution.

Explanation.—For the purposes of this section, the term "person" includes a University, trust or any other association of persons or body of individuals, but does not include the Central Government.

Criteria for approving or disapproving scheme.

- **28.** While approving or disapproving a scheme under section 27, the Dental Assessment and Rating Board, or the Commission, as the case may be, shall take into consideration the following criteria, namely:—
 - (a) adequacy of financial resources;
 - (b) whether adequate academic faculty and other necessary facilities have been provided to ensure proper functioning of dental college or undertaken to be provided within the time-limit specified in the scheme;
 - (c) whether adequate hospital facilities have been provided or undertaken to be provided within the time-limit specified in the scheme;
 - (d) such other factors as may be specified by regulations.

CHAPTER VII

STATE DENTAL COUNCIL OR JOINT DENTAL COUNCIL

State Dental Council or Joint Dental Council.

- **29.** (1) The State Government shall, within one year of the commencement of this Act, take necessary steps to establish a State Dental Council having the following composition, namely:—
 - (a) a dentist of outstanding ability, proven administrative capacity and integrity and possessing a postgraduate degree in any discipline of dentistry from any University or institute of national importance with experience of not less than twenty years in the field of dentistry, out of which at least ten years shall be as a leader, to be appointed by the State Government—Chairperson;
 - (b) one representative of the department of medical education or health services in the State Government not below the rank of Additional Director—Member, ex officio;
 - (c) four persons to be elected by dentists registered in the State Register from among themselves, in such manner as may be prescribed by the State Government—Members;
 - (d) two persons, having experience of not less than ten years in any field of dentistry from any Government Dental College in that State, to be nominated by the State Government—Members:

Provided that if the State does not have a Government Dental College, the State Government may nominate one of the senior-most dentist with minimum of ten years' service in any Government hospital or in the dental department of a Government Medical College;

(e) two persons having experience of not less than ten years in any field of dentistry from any recognised private dental college in the State, to be nominated by the State Government—Members:

Provided that if the State does not have a private dental college, the State Government may nominate one of the senior-most dentist with minimum of ten years' service in any private hospital or in the dental department of a private medical college;

(f) two persons of eminence having experience of not less than ten years in any field of dentistry, to be nominated by the State Government—Members.

- (2) The State Dental Council shall be a body corporate by the name aforesaid, having perpetual succession and a common seal, with power to acquire, hold and dispose of property, both movable and immovable, and to contract and shall by the same name sue or be sued.
- (3) The Chairperson of the State Dental Council and Members elected or nominated under clauses (c), (d), (e) and (f) of sub-section (I) shall hold office for a term not exceeding four years from the date on which they enter upon their office and shall not be eligible for extension or reappointment:

Provided that such person shall cease to hold office after attaining the age of seventy years.

(4) Where a State Act confers power upon the State Dental Council to take disciplinary actions in respect of any professional or ethical misconduct by a registered dentist or professional, the State Dental Council shall act in accordance with the regulations made, and the guidelines framed, under this Act:

Provided that till such time as a State Dental Council is established in a State, the Ethics and Dental Registration Board shall receive the complaints and grievances relating to any professional or ethical misconduct against a registered dentist or professional in that State in accordance with such procedure as may be specified by regulations:

Provided further that the Ethics and Dental Registration Board or the State Dental Council, as the case may be, shall give an opportunity of being heard to the dentist or professional concerned before taking any action, including imposition of any monetary penalty against such person.

- (5) A registered professional or any other person who is aggrieved by any action taken by a State Dental Council under sub-section (4) may prefer an appeal to the Ethics and Dental Registration Board within sixty days against such action, and the Ethics and Dental Registration Board shall decide on the appeal within a period of sixty days and the decision, if any, of the Ethics and Dental Registration Board thereupon shall be binding on the State Dental Council, unless a second appeal is preferred under sub-section (6).
- (6) A registered professional or any other person who is aggrieved by the decision of the Ethics and Dental Registration Board may prefer an appeal to the Commission within sixty days of communication of such decision and the Commission shall dispose of such appeal within a period of ninety days from the date of that appeal.
- (7) Notwithstanding anything to the contrary contained in this section, two or more States Governments may enter into an agreement to constitute a Joint Dental Council with representation of the participating States, not exceeding the composition specified in sub-section (1), to be in force for such period and subject to renewal for such further period, as may be specified in the agreement.

Explanation.—For the purposes of this Act,—

- (a) "State" includes Union territory and the expressions "State Government" and "State Dental Council", in relation to a Union territory, shall respectively mean the "Central Government" and "Union Territory Dental Council";
- (b) the expression "professional or ethical misconduct" includes any act of commission or omission as may be specified by regulations.

CHAPTER VIII

NATIONAL REGISTER AND STATE REGISTER

30. (1) The Ethics and Dental Registration Board shall maintain an online and live National National Register for Dentists containing the name, address, all recognised qualifications possessed by a licensed dentist and such other particulars as may be specified by regulations.

Register and State Register.

- (2) The Ethics and Dental Registration Board shall also maintain a separate online and live National Register for each category of dental auxiliaries, containing the name, address, recognised qualifications possessed by the dental auxiliaries and such other particulars as may be specified by regulations.
- (3) The National Register referred to in sub-sections (1) and (2) shall be maintained in such form, including in electronic or digital form and in such manner as may be specified by regulations.
- (4) The manner in which a name or qualification may be added to, or removed from, the National Register and the grounds for removal thereof, shall be such as may be specified by regulations.
- (5) The National Register shall be a public document within the meaning of section 74 of the Indian Evidence Act, 1872.

1 of 1872.

- (6) The National Register shall be made available to the public in form of a digital portal accessible on the website of the Ethics and Dental Registration Board in such manner and form as may be specified by regulations.
- (7) Every State Dental Council shall maintain and regularly update the State Register for Dentists and the State Register for dental auxiliaries in the specified electronic format and supply a physical copy of the same to the Ethics and Dental Registration Board within three months of the commencement of this Act.
- (8) The Ethics and Dental Registration Board shall ensure electronic synchronisation of the National Register and the State Registers in such manner that any change in one register is automatically reflected in the other register.
- **31.** (1) Any person who qualifies the National Exit Test (Dental) held under section 15 shall be granted a licence to practice dentistry and shall have his name and qualifications enrolled in the National Register or a State Register, as the case may be:

Provided that a person who has been registered in the Indian Dental Register maintained under the Dentists Act, 1948 prior to the coming into force of this Act and before 16 of 1948. the National Exit Test (Dental) becomes operational under sub-section (3) of section 15, shall be deemed to have been registered under this Act and be enrolled in the National Register maintained under this Act.

- (2) No person who has obtained dental qualification from a dental institution established in any country outside India and is recognised as a dentist in that country, shall, after the commencement of this Act and the National Exit Test (Dental) becomes operational under sub-section (3) of section 15, be enrolled in the National Register unless he qualifies the National Exit Test (Dental).
- (3) When a person whose name is entered in the State Register or the National Register, as the case may be, obtains any title, diploma or other qualification for proficiency in sciences or public health or dentistry which is a recognised dental qualification under section 33 or section 34 or section 35, as the case may be, he shall be entitled to have such title, diploma or qualification entered against his name in the State Register or the National Register, as the case may be, in such manner as may be specified by regulations.

Bar to practice.

Rights of

National

Register or

obligations

thereto.

State Register and their

persons to

have licence to

practice and to be enrolled in

- **32.** (1) No person other than a person who is enrolled in the State Register or the National Register, as the case may be, shall-
 - (a) be allowed to practice dentistry as a qualified dentist;
 - (b) hold office as a dentist or any other office, by whatever name called, which is meant to be held by a dentist;
 - (c) be entitled to sign or authenticate a medical or fitness certificate or any other certificate relating to dentistry, required by any law to be signed or authenticated by a duly qualified dentist;

1 of 1872.

(d) be entitled to give evidence at any inquest or in any court of law as an expert under section 45 of the Indian Evidence Act, 1872 on any matter relating to dentistry:

Provided that a foreign citizen who is enrolled in his country as a dentist in accordance with the law regulating the registration of dentists in that country may be permitted temporary registration in India for such period and in such manner as may be specified by regulations.

(2) Any person who contravenes any of the provisions of this section shall be punished with imprisonment for a term which may extend to one year, or with fine which may extend to five lakh rupees or with both.

CHAPTER IX

RECOGNITION OF DENTAL QUALIFICATIONS

- **33.** (*I*) The dental qualification granted by any University or dental institution in India shall be listed and maintained by the Under-Graduate and Post-Graduate Dental Education Board in such manner as may be specified by regulations and such dental qualification shall be a recognised dental qualification for the purposes of this Act.
- (2) Any University or dental institution in India which grants an undergraduate or postgraduate dental qualification not included in the list maintained by the Under-Graduate and Post-Graduate Dental Education Board shall apply to that Board for granting recognition to such qualification.
- (3) The Under-Graduate and Post-Graduate Dental Education Board shall examine the application for grant of recognition to a dental qualification within a period of six months in such manner as may be specified by regulations.
- (4) Where the Under-Graduate and Post-Graduate Dental Education Board decides to grant recognition to a dental qualification, it shall include such dental qualification in the list maintained by it and also specify the date of effect of such recognition.
- (5) Where the Under-Graduate and Post-Graduate Dental Education Board decides not to grant recognition to a dental qualification, the University or the dental institution concerned may prefer an appeal to the Commission for grant of recognition within sixty days of the communication of such decision, in such manner as may be specified by regulations.
- (6) The Commission shall examine the appeal received under sub-section (5) within sixty days from the date of filing of appeal and after giving an opportunity of being heard, pass such orders, as it thinks fit.
- (7) Where the Commission decides not to grant recognition to the dental qualification or fails to take a decision within the specified period, the University or the dental institution concerned may prefer a second appeal to the Central Government within thirty days of the communication of such decision or lapse of the specified period, as the case may be.
- (8) All dental qualifications which have been recognised before the date of commencement of this Act and are included in Part I and Part II of the Schedule to the Dentists Act, 1948, shall also be recognised dental qualifications for the purposes of this Act, and shall be listed and maintained by the Under-Graduate and Post-Graduate Dental Education Board in such manner as may be specified by regulations.
- **34.** (1) Any primary dental qualification or higher dental qualification which is recognised for enrolment as a dentist in a foreign country shall, in respect of a person who qualifies the National Exit Test (Dental) for primary dental qualification, or the Screening Test for higher dental qualification, be deemed to be a recognised dental qualification for the purposes of this Act.
- (2) The Commission shall, for the purposes of sub-section (1), conduct Screening Test for higher dental qualification through such designated authority, and in such manner, as may be specified by regulations.

Recognition of dental qualifications granted by Universities or dental institutions in India.

16 of 1948.

Recognition of dental qualifications granted by dental institutions outside India. (3) All dental qualifications which have been recognised before the date of commencement of this Act and are included in Part III of the Schedule to the Dentists Act, 1948, shall also be recognised dental qualifications for the purposes of this Act, and shall be listed and maintained by the Commission in such manner as may be specified by regulations.

16 of 1948.

Recognition of dental qualifications granted by statutory or other body in India.

Withdrawal of recognition

granted to dental

granted by

dental

qualification

institutions in India.

- **35.** (*I*) The dental qualifications granted by any statutory or other dental body in India which are covered by the categories listed in the Schedule shall be recognised dental qualifications for the purposes of this Act.
- (2) The Central Government may, on the recommendation of the Commission, and having regard to the objects of this Act, by notification, add to, or, as the case may be, omit from, the Schedule any categories of dental qualifications granted by a statutory or other body in India and on such addition, or as the case may be, omission, the dental qualifications granted by such statutory or other body in India shall be, or shall cease to be, recognised dental qualifications for the purposes of this Act.
- **36.** (*1*) Where, upon receiving the recommendation from the Dental Assessment and Rating Board under section 25, or otherwise, if the Commission is of the opinion that—
 - (a) the courses of study and examination to be undergone in, or the proficiency required from candidates at any examination held by, a University or dental institution do not conform to the standards specified by the Under-Graduate and Post-Graduate Dental Education Board; or
 - (b) the standards and norms for infrastructure, faculty and quality of education in dental institution as determined by the Under-Graduate and Post-Graduate Dental Education Board are not adhered to by any University or dental institution, and such University or dental institution has failed to take necessary corrective action to maintain specified minimum standards,

the Commission may initiate action in accordance with the provisions of sub-section (2):

Provided that the Commission shall, before taking any action for *suo motu* withdrawal of recognition granted to the dental qualification awarded by a University or dental institution, impose penalty in accordance with the provisions of clause (*f*) of sub-section (*I*) of section 25.

(2) The Commission shall, after making such further inquiry as it deems fit, and after holding consultations with the concerned State Government and the authority of the concerned University or dental institution, comes to the conclusion that the recognition granted to a dental qualification ought to be withdrawn, it may, by order, withdraw recognition granted to such dental qualification and direct the Under-Graduate and Post-Graduate Dental Education Board to amend the entries against the University or dental institution concerned in the list maintained by that Board to the effect that the recognition granted to such dental qualification is withdrawn with effect from the date specified in that order.

De-recognition of dental qualifications granted by dental institutions outside India. **37.** Where, after verification with the authority in any country outside India, the Commission is of the opinion that a recognised dental qualification granted by dental institutions outside India which is included in the list maintained by it is to be de-recognised, it may, by order, de-recognise such dental qualification and remove it from the list maintained by the Commission with effect from the date of such order.

CHAPTER X

Grants, accounts and audit

Grants by Central Government. **38.** The Central Government may, after due appropriation made by Parliament by law in this behalf, make to the Commission grants of such sums of money as the Central Government may think fit.

39. (1) There shall be constituted a fund to be called "the National Dental Commission Fund" which shall form part of the public account of India and there shall be credited thereto—

National Dental Commission Fund.

- (a) all fees, penalties and charges received by the Commission and the Autonomous Boards;
- (b) all sums received by the Commission from such other sources as may be decided by it.
- (2) The Fund shall be applied for making payment towards—
- (a) the salaries and allowances payable to the Chairperson, Members appointed or nominated under clauses (a) and (d) of sub-section (4) of section 4 and the Secretary of the Commission, the Presidents and Members of the Autonomous Boards and the administrative expenses including the salaries and allowances payable to the officers and other employees of the Commission and Autonomous Boards;
- (b) the expenses incurred in carrying out the provisions of this Act, including in connection with the discharge of the functions of the Commission and the Autonomous Boards.
- **40.** (*I*) The Commission shall maintain proper accounts and other relevant records and prepare an annual statement of accounts in such form as may be prescribed, in consultation with the Comptroller and Auditor-General of India.

Audit and accounts.

- (2) The accounts of the Commission shall be audited by the Comptroller and Auditor-General of India at such intervals as may be specified by him and any expenditure incurred in connection with such audit shall be payable by the Commission to the Comptroller and Auditor-General of India.
- (3) The Comptroller and Auditor-General of India and any other persons appointed by him in connection with the audit of the accounts of the Commission shall have the same rights and privileges and authority in connection with such audit as the Comptroller and Auditor-General generally has in connection with the audit of Government accounts and in particular, shall have the right to demand the production of, and complete access to, records, books, accounts, connected vouchers and other documents and papers and to inspect the office of the Commission.
- (4) The accounts of the Commission as certified by the Comptroller and Auditor-General of India or any other person appointed by him in this behalf, together with the audit report thereon, shall be forwarded annually by the Commission to the Central Government which shall cause the same to be laid, as soon as may be after it is received, before each House of Parliament.
- **41.** (1) The Commission shall furnish to the Central Government, at such time, in such form and in such manner, as may be prescribed or as the Central Government may direct, such reports and statements, containing such particulars in regard to any matter under the jurisdiction of the Commission, as the Central Government may, from time to time, require.

Furnishing of returns and reports to Central Government.

- (2) The Commission shall prepare, once every year, in such form and at such time as may be prescribed, an annual report, giving a summary of its activities during the previous year and copies of the report shall be forwarded to the Central Government.
- (3) A copy of the report received under sub-section (2) shall be laid by the Central Government, as soon as may be after it is received, before each House of Parliament.

CHAPTER XI

MISCELLANEOUS

42. (*I*) Without prejudice to the foregoing provisions of this Act, the Commission and the Autonomous Boards shall, in exercise of their powers and discharge of their functions under this Act, be bound by such directions on questions of policy as the Central Government may give in writing to them from time to time:

Power of Central Government to give directions to Commission and Autonomous Boards. Provided that the Commission and the Autonomous Boards shall, as far as practicable, be given an opportunity to express their views before any direction is given under this sub-section.

(2) The decision of the Central Government as to whether a question is one of policy or not shall be final.

Power of Central Government to give directions to State Governments.

- **43.** (1) The Central Government may give such directions on questions of policy, as it may deem necessary, to a State Government for carrying out all or any of the provisions of this Act and the State Government shall comply with such directions.
- (2) The decision of the Central Government as to whether a question is one of policy or not shall be final.

Information to be furnished by Commission and publication thereof.

- **44.** (*I*) The Commission shall furnish such reports, copies of its minutes, abstracts of its accounts, and other information to the Central Government as that Government may require.
- (2) The Central Government may publish, in such manner as it may think fit, the reports, minutes, abstracts of accounts and other information furnished to it under sub-section (1).

Obligation of Universities and dental institutions.

45. Every University and dental institution governed under this Act shall maintain a website at all times and display on its website all such information as may be required by the Commission or an Autonomous Board, as the case may be.

Completion of courses of studies in dental institutions.

- **46.** (1) Notwithstanding anything contained in this Act, any student who was studying for a degree, diploma or certificate in any dental institution immediately before the commencement of this Act shall continue to so study and complete his course for such degree, diploma or certificate, and such institution shall continue to provide instructions and examination for such student in accordance with the syllabus and studies as existed before such commencement, and such student shall be deemed to have completed his course of study under this Act and shall be awarded degree, diploma or certificate under this Act.
- (2) Notwithstanding anything contained in this Act, where recognition granted to a dental institution has lapsed, whether by efflux of time or by its voluntary surrender or for any other reason whatsoever, such dental institution shall continue to maintain and provide the minimum standards required to be provided under this Act till such time as all candidates who are admitted in that dental institution complete their study.

Joint sittings of Commission with relevant regulatory bodies.

47. The Commission shall, at least once a year, hold a meeting with the National Medical Commission, the Pharmacy Council of India, the Indian Nursing Council, National Commission for Indian System of Medicine, the National Commission for Homoeopathy and the National Commission for Allied and Healthcare Professions or the corresponding National Regulator for regulating the above professions, at such time and place as they mutually appoint, to enhance the interface between different workforce categories in modern system of medicine, develop consensus on issues and promote team based approach to healthcare delivery.

State
Government
to promote
preventive
and
promotive
dental care in
rural areas.

48. Every State Government may, for the purposes of addressing or promoting public dentistry and community dental care in rural areas, take necessary measures to enhance the capacity of the dental professionals.

45 of 1860.

49. The Chairperson, Members, officers and other employees of the Commission and the President, Members and officers and other employees of the Autonomous Boards shall be deemed, when acting or purporting to act in pursuance of any of the provisions of this Act, to be public servants within the meaning of section 21 of the Indian Penal Code.

Chairperson, Members, officers of Commission and of Autonomous Boards to be public servants.

50. No suit, prosecution or other legal proceeding shall lie against the Government, the Commission or any Autonomous Board or a State Dental Council or any Committee thereof, or any officer or other employee of the Government or of the Commission acting under this Act for anything which is in good faith done or intended to be done under this Act or the rules or regulations made thereunder.

Protection of action taken in good faith.

51. No court shall take cognizance of an offence punishable under this Act except upon a complaint in writing made in this behalf by an officer authorised by the Commission or the Ethics and Dental Registration Board or a State Dental Council, as the case may be.

Cognizance of offences.

52. (1) If, at any time, the Central Government is of opinion that—

Power of Central Government to supersede Commission

(a) the Commission is unable to discharge the functions and duties imposed on it by or under the provisions of this Act; or

(b) the Commission has persistently made default in complying with any direction issued by the Central Government under this Act or in the discharge of the functions and duties imposed on it by or under the provisions of this Act,

the Central Government may, by notification, supersede the Commission for such period, not exceeding six months, as may be specified in the notification:

Provided that before issuing a notification under this sub-section, the Central Government shall give a reasonable opportunity to the Commission to show cause as to why it should not be superseded and shall consider the explanations and objections, if any, of the Commission.

- (2) Upon the publication of a notification under sub-section (1) superseding the Commission.—
 - (a) all the Members shall, as from the date of supersession, vacate their offices as such;
 - (b) all the powers, functions and duties which may, by or under the provisions of this Act, be exercised or discharged by or on behalf of the Commission, shall, until the Commission is re-constituted under sub-section (3), be exercised and discharged by such person or persons as the Central Government may direct;
 - (c) all property owned or controlled by the Commission shall, until the Commission is re-constituted under sub-section (3), vest in the Central Government.
- (3) On the expiration of the period of supersession specified in the notification issued under sub-section (1), the Central Government may—
 - (a) extend the period of supersession for such further term not exceeding six months, as it may consider necessary; or
 - (b) re-constitute the Commission by fresh appointment and in such case the Members who vacated their offices under clause (a) of sub-section (2) shall not be deemed disqualified for appointment:

Provided that the Central Government may, at any time before the expiration of the period of supersession, whether as originally specified under sub-section (I) or as extended under this sub-section, take action under clause (b) of this sub-section.

(4) The Central Government shall cause a notification issued under sub-section (1) and a full report of any action taken under this section and the circumstances leading to such action to be laid before both Houses of Parliament at the earliest.

Power of Central Government to make rules.

- **53.** (*I*) The Central Government may, by notification, make rules to carry out the provisions of this Act.
- (2) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely:—
 - (a) the manner of appointing ten Members of the Commission on rotational basis from amongst the nominees of the States and Union territories in the Dental Advisory Council under clause (b) of sub-section (4) of section 4;
 - (b) the manner of appointing nine members of the Commission under clause (c) of sub-section (4) of section 4;
 - (c) the manner of nominating two members from amongst dental faculties, under clause (d) of sub-section (4) of section 4;
 - (d) the salaries and allowances payable to, and other terms and conditions of service of the Chairperson and Members under sub-section (4) of section 6;
 - (e) the form and the manner of making declaration under sub-section (6) of section 6;
 - (f) the qualifications and experience to be possessed by the Secretary of the Commission under sub-section (2) of section 8;
 - (g) the salaries and allowances payable to, and other terms and conditions of service of the Secretary, officers and other employees of the Commission under sub-section (7) of section 8;
 - (h) the other powers and functions of the Commission under clause (p) of sub-section (2) of section 10;
 - (i) the dental qualifications and experience to be possessed by a member under the second proviso to clause (d) of sub-section (2) of section 11;
 - (*j*) the manner of choosing second part-time Members under sub-section (5) of section 17;
 - (k) the salaries and allowances payable to, and other terms and conditions of service of the President and Members of an Autonomous Board and the allowances payable to part-time Members under sub-section (2) of section 19;
 - (l) the form for preparing annual statement of accounts under sub-section (l) of section 40;
 - (*m*) the time within which, and the form and the manner in which, the reports and statements shall be furnished by the Commission under sub-section (*I*) of section 41;
 - (n) the form and the time for preparing annual report under sub-section (2) of section 41;
 - (*o*) the amount of compensation payable to employees under the proviso to sub-section (5) of section 58;
 - (p) any other matter in respect of which provision is to be made by rules.

54. (1) The Commission may, after previous publication, by notification, make regulations consistent with this Act and the rules made thereunder to carry out the provisions of this Act.

Power to make regulations.

- (2) In particular, and without prejudice to the generality of the foregoing power, such regulations may provide for all or any of the following matters, namely:—
 - (a) the functions to be discharged by the Secretary of the Commission under sub-section (5) of section 8;
 - (b) the procedure in accordance with which experts, consultants and professionals may be engaged, or the experts and domain specialists from foreign country may be invited, and the number of such experts and professionals under sub-section (8) of section 8;
 - (c) the procedure to be followed at the meetings of the Commission under sub-section (3) of section 9;
 - (d) the quality and standards to be maintained in dental education under clause (a) of sub-section (2) of section 10;
 - (e) the manner of regulating dental institutions, dental research, dentists and dental auxiliaries under clause (c) of sub-section (2) of section 10;
 - (f) the manner of functioning of the Commission, the Autonomous Boards, the State Dental Councils and the Joint Dental Councils under clause (h) of sub-section (2) of section 10;
 - (g) the procedure to be followed at the meetings of the Dental Advisory Council under sub-section (3) of section 13;
 - (h) the manner of conducting common counselling by the designated authority for admission to the undergraduate and postgraduate dental education under sub-section (3) of section 14;
 - (i) the designated authority, and the manner for conducting the National Exit Test (Dental) under sub-section (2) of section 15;
 - (*j*) the manner in which a person with foreign dental qualification shall qualify National Exit Test (Dental) and the manner of his enrolment in the State Register or the National Register under sub-section (4) of section 15;
 - (*k*) the manner in which admission to the postgraduate dental education shall be made on the basis of National Exit Test (Dental) under sub-section (*5*) of section 15;
 - (*l*) the manner of conducting common counselling by the designated authority for admission to the postgraduate dental education under sub-section (6) of section 15;
 - (*m*) the manner of nominating one member from amongst personnel of each category of the dental auxiliaries to the advisory committee for the Under-Graduate and Post-Graduate Dental Education Board under the proviso to sub-section (*I*) of section 20:
 - (n) the number of, and the manner in which, the experts, professionals, officers and other employees, including the experts and domain specialists from foreign countries invited by the Commission, under sub-section (8) of section 8 shall be made available by the Commission to the Autonomous Boards under section 21;
 - (*o*) the competency based dynamic curriculum at undergraduate level and postgraduate level under clause (*b*) of sub-section (*1*) of section 24;
 - (p) the manner of imparting undergraduate courses and postgraduate courses for dentists and dental auxiliaries by dental institutions under clause (c) of sub-section (I) of section 24;
 - (q) the minimum requirements and standards for conducting courses and examinations at undergraduate level and postgraduate level for dentists and dental auxiliaries in dental institutions under clause (d) of sub-section (1) of section 24;

- (r) the standards and norms for infrastructure, faculty and quality of education at undergraduate level and postgraduate level for dentists and dental auxiliaries in dental institutions under clause (e) of sub-section (I) of section 24;
- (s) the procedure for assessing and rating of dental institutions under clause (a) of sub-section (1) of section 25;
- (t) the manner of carrying out inspections of dental institutions for assessing and rating such institutions under clause (c) of sub-section (I) of section 25;
- (u) the manner of conducting, and the manner of empaneling independent rating agencies to conduct assessment and rating of dental institutions and the time period for such assessment and rating under clause (d) of sub-section (I) of section 25;
- (ν) the manner of making available on website or in public domain the assessment and ratings of dental institutions under clause (e) of sub-section (I) of section 25;
- (w) the measures to be taken against a dental institution for failure to maintain the minimum essential standards under clause (f) of sub-section (1) of section 25;
- (x) the manner of regulating professional conduct and promoting dental ethics under clause (b) of sub-section (1) of section 26;
- (y) the form of scheme, the particulars thereof, the fee to be accompanied and the manner of submitting scheme for establishing new dental college or for starting any postgraduate course or for increasing number of seats under sub-section (2) of section 27;
- (z) the manner of preferring an appeal to the Commission for approval of the scheme under sub-section (5) of section 27;
 - (za) the other factors under clause (d) of section 28;
- (zb) the manner of taking disciplinary action by a State Dental Council for professional or ethical misconduct of registered dentist or professional and the procedure for receiving complaints and grievances by Ethics and Dental Registration Board under sub-section (4) of section 29;
- (zc) the act of commission or omission which amounts to professional or ethical misconduct under clause (b) of the Explanation to section 29;
- (*zd*) other particulars to be contained in the National Register for Dentists under sub-section (*I*) of section 30;
- (ze) the particulars to be contained in the National Register for Dental Auxiliaries under sub-section (2) of section 30;
- (*zf*) the form, including the electronic form and the manner of maintaining the National Registers, under sub-section (*3*) of section 30;
- (zg) the manner in which any name or qualification may be added to, or removed from, the National Register and the grounds for removal thereof, under sub-section (4) of section 30;
- (*zh*) the manner of entering the title, diploma or qualification in the State Register or the National Register, under sub-section (*3*) of section 31;
- (*zi*) the period for which, and the manner in which, a foreign citizen who is enrolled in his country as a dentist may be permitted temporary registration in India, under the proviso to sub-section (*I*) of section 32;
- (*zj*) the manner of listing and maintaining dental qualifications granted by a University or dental institution in India under sub-section (*1*) of section 33;
- (zk) the manner of examining the application for grant of recognition under sub-section (3) of section 33;

- (zl) the manner of including a dental qualification in the list maintained by the Board under sub-section (4) of section 33;
- (zm) the manner of preferring an appeal to the Commission for grant of recognition under sub-section (5) of section 33;
- (zn) the manner of listing and maintaining dental qualifications which have been granted recognition before the date of commencement of this Act under sub-section (8) of section 33;
- (zo) the designated authority for conducting Screening Test for higher dental qualification, and the manner of conducting the Screening Test under sub-section (2) of section 34:
- (zp) the manner of listing and maintaining dental qualifications which have been granted recognition before the date of commencement of this Act under sub-section (3) of section 34.
- **55.** Every rule and every regulation made, and every notification issued, under this Act shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or regulation or notification or both Houses agree that the rule or regulation or notification should not be made, the rule or regulation or notification shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule or regulation or notification.

Rules and regulations to be laid before Parliament.

56. (1) The State Government may, by notification, make rules to carry out the provisions of section 29 and section 48 of this Act.

Power of State Government to make rules.

- (2) In particular, and without prejudice to the generality of the foregoing powers under sub-section (1), such rules may provide for the following matters, namely:-
 - (a) the salary and allowances payable to, and other conditions of service of, the Chairperson and Members of the State Dental Council and Joint Dental Council;
 - (b) the manner of filling up of vacancies arising in the State Dental Council and Joint Dental Council;
 - (c) any other matter in respect of which provision is to be made by rules.
- (3) Every rule made by the State Government under this Act shall be laid, as soon as may be after it is made, before each House of State Legislature, where there are two Houses and where there is one House of State Legislature, before that House.
- **57.** (1) If any difficulty arises in giving effect to the provisions of this Act, the Central Government may, by order published in the Official Gazette, make such provisions not inconsistent with the provisions of this Act, as may appear to it be necessary, for removing the difficulty:

Power to difficulties

Provided that no order shall be made under this section after the expiry of a period of two years from the commencement of this Act.

- (2) Every order made under this section shall be laid, as soon as may be after it is made, before each House of Parliament.
- **58.** (1) With effect from such date as the Central Government may appoint in this Repeal and behalf, the Dentists Act, 1948 shall stand repealed and the Dental Council of India constituted under section 3 of the said Act shall stand dissolved.

- (2) Notwithstanding the repeal of the Act referred to in sub-section (1), it shall not affect,-
 - (a) the previous operation of the Act so repealed or anything duly done or suffered thereunder; or
 - (b) any right, privilege, obligation or liability acquired, accrued or incurred under the Act so repealed; or
 - (c) any penalty incurred in respect of any contravention under the Act so repealed; or
 - (d) any proceeding or remedy in respect of any such right, privilege, obligation, liability, penalty as aforesaid, and any such proceeding or remedy may be instituted, continued or enforced, and any such penalty may be imposed as if that Act had not been repealed.
- (3) On the dissolution of the Dental Council of India, the person acting as the President and Members of the Dental Council of India holding office as such immediately before such dissolution shall vacate their respective offices and such President and Members shall be entitled to claim compensation not exceeding three months' pay and allowances for the premature termination of term of their office or of any contract of service.
- (4) Every officer who has been appointed on deputation basis in the Dental Council of India shall, on its dissolution, stand reverted to his parent cadre, Ministry or Department, as the case may be.
- (5) The services of other employees who have been, before the dissolution of the Dental Council of India, employed on regular basis by the Dental Council of India, shall continue for no longer than one year after the commencement of this Act, as an interim arrangement and thereafter, further continuity or otherwise of their services shall be determined by the Commission on the basis of their performance appraisal or evaluation:

Provided that such employees of the erstwhile Dental Council of India shall be entitled to such compensation which shall not be less three months' pay and allowances, as may be prescribed.

(6) Notwithstanding the repeal of the aforesaid enactment, any order made, any licence to practice issued, any registration made, any permission to start new dental college or to start higher course of studies or for increase in the admission capacity granted, any recognition of dental qualifications granted, under the Dentists Act, 1948, which are in force 16 of 1948. as on the date of commencement of this Act, shall continue to be in force till the date of their expiry for all purposes, as if they had been issued or granted under the provisions of this Act or the rules or regulations made thereunder.

- **59.** (1) The Commission shall be the successor in interest to the Dental Council of India including its subsidiaries or owned trusts and all the assets and liabilities of the Dental Council of India shall be deemed to have been transferred to the Commission.
- (2) Notwithstanding the repeal of the Dentists Act, 1948, the educational standards, 16 of 1948. requirements and other provisions of the said Act and the rules and regulations made thereunder shall continue to be in force and operate till new standards or requirements are specified under this Act or the rules and regulations made thereunder:

Provided that anything done or any action taken as regards the educational standards and requirements under the enactment under repeal and the rules and regulations made thereunder shall be deemed to have been done or taken under the corresponding provisions of this Act and shall continue in force accordingly unless and until superseded by anything done or by any action taken under this Act.

(3) Notwithstanding the repeal of the Dentists Act, 1948, the State Council and the Joint State Council constituted respectively under section 21 and section 23 of the said Act shall continue to operate until a new State Dental Council is established by the State Government in accordance with the provisions of section 29 of this Act.

Transitory provisions.

THE SCHEDULE (See section 35)

List of categories of Dental Qualifications granted by statutory or other Dental body in India

Sl. No.	Categories of dental qualifications
1.	All dental qualifications granted by All India Institutes of Medical Sciences.
2.	All dental qualifications granted by the Oral Health Sciences Centre, Post Graduate Institute of Medical Education and Research, Chandigarh.
3.	All dental qualifications granted by the Jawaharlal Institute of Postgraduate Medical Education and Research, Puducherry.

DR. REETA VASISHTA, Secretary to the Govt. of India.

ಕರ್ನಾಟಕ ರಾಜ್ಯಪಾಲರ ಆದೇಶಾನುಸಾರ ಮತ್ತು ಅವರ ಹೆಸರಿನಲ್ಲಿ

(ಡಿ.ಬಿ. ಜನಾರ್ಧನ) ಸಹಾಯಕ ಪ್ರಾರೂಪಕಾರ ಮತ್ತು ಪದನಿಮಿತ್ತ ಸರ್ಕಾರದ ಉಪ ಕಾರ್ಯದರ್ಶಿ ಸಂಸದೀಯ ವ್ಯವಹಾರಗಳು ಮತ್ತು ಶಾಸನ ರಚನೆ ಇಲಾಖೆ

PR-53

ಸಂಸದೀಯ ವ್ಯವಹಾರಗಳು ಮತ್ತು ಶಾಸನ ರಚನೆ ಇಲಾಖೆ ಅಧಿಸೂಚನೆ

ಸಂಖ್ಯೆ: ಸಂವ್ಯಶಾಇ 30 ಕೇಶಾಪ್ರ 2023

ಬೆಂಗಳೂರು, ದಿನಾಂಕ:19.08.2023.

ದಿನಾಂಕ: 11.08.2023 ರಂದು ಭಾರತ ಸರ್ಕಾರದ ಗೆಜೆಟ್ನ ವಿಶೇಷ ಸಂಚಿಕೆಯ Part-II-Section-1 ರಲ್ಲಿ ಪ್ರಕಟವಾದ THE DIGITAL PERSONAL DATA PROTECTION ACT, 2023 (NO. 22 OF 2023) ಅನ್ನು ಸಾರ್ವಜನಿಕರ ಮಾಹಿತಿಗಾಗಿ ಕರ್ನಾಟಕ ರಾಜ್ಯಪತ್ರದಲ್ಲಿ ಮರು ಪ್ರಕಟಿಸಲಾಗಿದೆ,-



सी.जी.-डी.एल.-अ.-12082023**-**248045 CG-DL-E-1**2082023-248045**

असाधारण

EXTRAORDINARY

भाग II — खण्ड 1

PART II — Section 1

प्राधिकार से प्रकाशित

PUBLISHED BY AUTHORITY

सं॰ 25] नई दिल्ली, शुक्रवार, अगस्त 11, 2023/श्रावण 20, 1945 (शक) No. 25| NEW DELHI, FRIDAY, AUGUST 11, 2023/SRAVANA 20, 1945 (SAKA)

इस भाग में भिन्न पृष्ठ संख्या दी जाती है जिससे कि यह अलग संकलन के रूप में रखा जा सके। Separate paging is given to this Part in order that it may be filed as a separate compilation.

MINISTRY OF LAW AND JUSTICE (Legislative Department)

New Delhi, the 11th August, 2023/Sravana 20, 1945 (Saka)

The following Act of Parliament received the assent of the President on the 11th August, 2023 and is hereby published for general information:—

THE DIGITAL PERSONAL DATA PROTECTION ACT, 2023

(No. 22 of 2023)

[11th August, 2023.]

An Act to provide for the processing of digital personal data in a manner that recognises both the right of individuals to protect their personal data and the need to process such personal data for lawful purposes and for matters connected therewith or incidental thereto.

BE it enacted by Parliament in the Seventy-fourth Year of the Republic of India as follows:—

CHAPTER I

PRELIMINARY

- **1.** (1) This Act may be called the Digital Personal Data Protection Act, 2023.
- Short title and
- (2) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint and different dates may be appointed for different provisions of this Act and any reference in any such provision to the commencement of this Act shall be construed as a reference to the coming into force of that provision.

Definitions.

- 2. In this Act, unless the context otherwise requires,—
- (a) "Appellate Tribunal" means the Telecom Disputes Settlement and Appellate Tribunal established under section 14 of the Telecom Regulatory Authority of India Act, 1997;

24 of 1997.

- (b) "automated" means any digital process capable of operating automatically in response to instructions given or otherwise for the purpose of processing data;
- (c) "Board" means the Data Protection Board of India established by the Central Government under section 18;
 - (d) "certain legitimate uses" means the uses referred to in section 7;
 - (e) "Chairperson" means the Chairperson of the Board;
- (f) "child" means an individual who has not completed the age of eighteen years;
- (g) "Consent Manager" means a person registered with the Board, who acts as a single point of contact to enable a Data Principal to give, manage, review and withdraw her consent through an accessible, transparent and interoperable platform;
- (h) "data" means a representation of information, facts, concepts, opinions or instructions in a manner suitable for communication, interpretation or processing by human beings or by automated means;
- (i) "Data Fiduciary" means any person who alone or in conjunction with other persons determines the purpose and means of processing of personal data;
- (j) "Data Principal" means the individual to whom the personal data relates and where such individual is—
 - (i) a child, includes the parents or lawful guardian of such a child;
 - (ii) a person with disability, includes her lawful guardian, acting on her behalf;
- (k) "Data Processor" means any person who processes personal data on behalf of a Data Fiduciary;
- (*l*) "Data Protection Officer" means an individual appointed by the Significant Data Fiduciary under clause (*a*) of sub-section (*2*) of section 10;
- (m) "digital office" means an office that adopts an online mechanism wherein the proceedings, from receipt of intimation or complaint or reference or directions or appeal, as the case may be, to the disposal thereof, are conducted in online or digital mode:
 - (n) "digital personal data" means personal data in digital form;
 - (o) "gain" means—
 - (i) a gain in property or supply of services, whether temporary or permanent; or
 - (ii) an opportunity to earn remuneration or greater remuneration or to gain a financial advantage otherwise than by way of legitimate remuneration;
 - (p) "loss" means—
 - (i) a loss in property or interruption in supply of services, whether temporary or permanent; or
 - (ii) a loss of opportunity to earn remuneration or greater remuneration or to gain a financial advantage otherwise than by way of legitimate remuneration;

- (q) "Member" means a Member of the Board and includes the Chairperson;
- (r) "notification" means a notification published in the Official Gazette and the expressions "notify" and "notified" shall be construed accordingly;
 - (s) "person" includes—
 - (i) an individual;
 - (ii) a Hindu undivided family;
 - (iii) a company;
 - (iv) a firm;
 - (v) an association of persons or a body of individuals, whether incorporated or not;
 - (vi) the State; and
 - (vii) every artificial juristic person, not falling within any of the preceding sub-clauses;
- (t) "personal data" means any data about an individual who is identifiable by or in relation to such data;
- (u) "personal data breach" means any unauthorised processing of personal data or accidental disclosure, acquisition, sharing, use, alteration, destruction or loss of access to personal data, that compromises the confidentiality, integrity or availability of personal data;
 - (v) "prescribed" means prescribed by rules made under this Act;
- (w) "proceeding" means any action taken by the Board under the provisions of this Act;
- (x) "processing" in relation to personal data, means a wholly or partly automated operation or set of operations performed on digital personal data, and includes operations such as collection, recording, organisation, structuring, storage, adaptation, retrieval, use, alignment or combination, indexing, sharing, disclosure by transmission, dissemination or otherwise making available, restriction, erasure or destruction;
- (y) "she" in relation to an individual includes the reference to such individual irrespective of gender;
- (z) "Significant Data Fiduciary" means any Data Fiduciary or class of Data Fiduciaries as may be notified by the Central Government under section 10;
- (za) "specified purpose" means the purpose mentioned in the notice given by the Data Fiduciary to the Data Principal in accordance with the provisions of this Act and the rules made thereunder; and
 - (zb) "State" means the State as defined under article 12 of the Constitution.
- **3.** Subject to the provisions of this Act, it shall—

Application of Act.

- (a) apply to the processing of digital personal data within the territory of India where the personal data is collected—
 - (i) in digital form; or
 - (ii) in non-digital form and digitised subsequently;
- (b) also apply to processing of digital personal data outside the territory of India, if such processing is in connection with any activity related to offering of goods or services to Data Principals within the territory of India;

- (c) not apply to—
- (i) personal data processed by an individual for any personal or domestic purpose; and
- (ii) personal data that is made or caused to be made publicly available by—
 - (A) the Data Principal to whom such personal data relates; or
 - (B) any other person who is under an obligation under any law for the time being in force in India to make such personal data publicly available.

Illustration.

X, an individual, while blogging her views, has publicly made available her personal data on social media. In such case, the provisions of this Act shall not apply.

CHAPTER II

Obligations of Data Fiduciary

Grounds for processing personal data.

- **4.** (1) A person may process the personal data of a Data Principal only in accordance with the provisions of this Act and for a lawful purpose,—
 - (a) for which the Data Principal has given her consent; or
 - (b) for certain legitimate uses.
- (2) For the purposes of this section, the expression "lawful purpose" means any purpose which is not expressly forbidden by law.

Notice.

- **5.** (1) Every request made to a Data Principal under section 6 for consent shall be accompanied or preceded by a notice given by the Data Fiduciary to the Data Principal, informing her.—
 - (i) the personal data and the purpose for which the same is proposed to be processed;
 - (ii) the manner in which she may exercise her rights under sub-section (4) of section 6 and section 13; and
- (iii) the manner in which the Data Principal may make a complaint to the Board, in such manner and as may be prescribed.

Illustration.

X, an individual, opens a bank account using the mobile app or website of Y, a bank. To complete the Know-Your-Customer requirements under law for opening of bank account, X opts for processing of her personal data by Y in a live, video-based customer identification process. Y shall accompany or precede the request for the personal data with notice to X, describing the personal data and the purpose of its processing.

- (2) Where a Data Principal has given her consent for the processing of her personal data before the date of commencement of this Act,—
 - (a) the Data Fiduciary shall, as soon as it is reasonably practicable, give to the Data Principal a notice informing her,—
 - (i) the personal data and the purpose for which the same has been processed;
 - (ii) the manner in which she may exercise her rights under sub-section (4) of section 6 and section 13; and
 - (iii) the manner in which the Data Principal may make a complaint to the Board.

in such manner and as may be prescribed.

(b) the Data Fiduciary may continue to process the personal data until and unless the Data Principal withdraws her consent.

Illustration.

X, an individual, gave her consent to the processing of her personal data for an online shopping app or website operated by Y, an e-commerce service provider, before the commencement of this Act. Upon commencement of the Act, Y shall, as soon as practicable, give through email, in-app notification or other effective method information to X, describing the personal data and the purpose of its processing.

- (3) The Data Fiduciary shall give the Data Principal the option to access the contents of the notice referred to in sub-sections (1) and (2) in English or any language specified in the Eighth Schedule to the Constitution.
- 6. (1) The consent given by the Data Principal shall be free, specific, informed, Consent. unconditional and unambiguous with a clear affirmative action, and shall signify an agreement to the processing of her personal data for the specified purpose and be limited to such personal data as is necessary for such specified purpose.

X, an individual, downloads Y, a telemedicine app. Y requests the consent of X for (i) the processing of her personal data for making available telemedicine services, and (ii) accessing her mobile phone contact list, and X signifies her consent to both. Since phone contact list is not necessary for making available telemedicine services, her consent shall be limited to the processing of her personal data for making available telemedicine services.

(2) Any part of consent referred in sub-section (1) which constitutes an infringement of the provisions of this Act or the rules made thereunder or any other law for the time being in force shall be invalid to the extent of such infringement.

Illustration.

- X, an individual, buys an insurance policy using the mobile app or website of Y, an insurer. She gives to Y her consent for (i) the processing of her personal data by Y for the purpose of issuing the policy, and (ii) waiving her right to file a complaint to the Data Protection Board of India. Part (ii) of the consent, relating to waiver of her right to file a complaint, shall be invalid.
- (3) Every request for consent under the provisions of this Act or the rules made thereunder shall be presented to the Data Principal in a clear and plain language, giving her the option to access such request in English or any language specified in the Eighth Schedule to the Constitution and providing the contact details of a Data Protection Officer, where applicable, or of any other person authorised by the Data Fiduciary to respond to any communication from the Data Principal for the purpose of exercise of her rights under the provisions of this Act.
- (4) Where consent given by the Data Principal is the basis of processing of personal data, such Data Principal shall have the right to withdraw her consent at any time, with the ease of doing so being comparable to the ease with which such consent was given.
- (5) The consequences of the withdrawal referred to in sub-section (4) shall be borne by the Data Principal, and such withdrawal shall not affect the legality of processing of the personal data based on consent before its withdrawal.

Illustration.

X, an individual, is the user of an online shopping app or website operated by Y, an e-commerce service provider. X consents to the processing of her personal data by Y for the purpose of fulfilling her supply order and places an order for supply of a good while making payment for the same. If X withdraws her consent, Y may stop enabling X to use the app or website for placing orders, but may not stop the processing for supply of the goods already ordered and paid for by X.

(6) If a Data Principal withdraws her consent to the processing of personal data under sub-section (5), the Data Fiduciary shall, within a reasonable time, cease and cause its Data Processors to cease processing the personal data of such Data Principal unless such processing without her consent is required or authorised under the provisions of this Act or the rules made thereunder or any other law for the time being in force in India.

Illustration.

- X, a telecom service provider, enters into a contract with Y, a Data Processor, for emailing telephone bills to the customers of X. Z, a customer of X, who had earlier given her consent to X for the processing of her personal data for emailing of bills, downloads the mobile app of X and opts to receive bills only on the app. X shall itself cease, and shall cause Y to cease, the processing of the personal data of Z for emailing bills.
- (7) The Data Principal may give, manage, review or withdraw her consent to the Data Fiduciary through a Consent Manager.
- (8) The Consent Manager shall be accountable to the Data Principal and shall act on her behalf in such manner and subject to such obligations as may be prescribed.
- (9) Every Consent Manager shall be registered with the Board in such manner and subject to such technical, operational, financial and other conditions as may be prescribed.
- (10) Where a consent given by the Data Principal is the basis of processing of personal data and a question arises in this regard in a proceeding, the Data Fiduciary shall be obliged to prove that a notice was given by her to the Data Principal and consent was given by such Data Principal to the Data Fiduciary in accordance with the provisions of this Act and the rules made thereunder.

Certain

- 7. A Data Fiduciary may process personal data of a Data Principal for any of following legitimate uses. uses, namely:-
 - (a) for the specified purpose for which the Data Principal has voluntarily provided her personal data to the Data Fiduciary, and in respect of which she has not indicated to the Data Fiduciary that she does not consent to the use of her personal data.

Illustrations.

- (I) X, an individual, makes a purchase at Y, a pharmacy. She voluntarily provides Y her personal data and requests Y to acknowledge receipt of the payment made for the purchase by sending a message to her mobile phone. Y may process the personal data of X for the purpose of sending the receipt.
- (II) X, an individual, electronically messages Y, a real estate broker, requesting Y to help identify a suitable rented accommodation for her and shares her personal data for this purpose. Y may process her personal data to identify and intimate to her the details of accommodation available on rent. Subsequently, X informs Y that X no longer needs help from Y. Y shall cease to process the personal data of X;
 - (b) for the State and any of its instrumentalities to provide or issue to the Data Principal such subsidy, benefit, service, certificate, licence or permit as may be prescribed, where—
 - (i) she has previously consented to the processing of her personal data by the State or any of its instrumentalities for any subsidy, benefit, service, certificate, licence or permit; or
 - (ii) such personal data is available in digital form in, or in non-digital form and digitised subsequently from, any database, register, book or other document which is maintained by the State or any of its instrumentalities and is notified by the Central Government,

subject to standards followed for processing being in accordance with the policy issued by the Central Government or any law for the time being in force for governance of personal data.

Illustration.

X. a pregnant woman, enrols herself on an app or website to avail of government's maternity benefits programme, while consenting to provide her personal data for the purpose of availing of such benefits. Government may process the personal data of X processing to determine her eligibility to receive any other prescribed benefit from the government;

- (c) for the performance by the State or any of its instrumentalities of any function under any law for the time being in force in India or in the interest of sovereignty and integrity of India or security of the State;
- (d) for fulfilling any obligation under any law for the time being in force in India on any person to disclose any information to the State or any of its instrumentalities, subject to such processing being in accordance with the provisions regarding disclosure of such information in any other law for the time being in force;
- (e) for compliance with any judgment or decree or order issued under any law for the time being in force in India, or any judgment or order relating to claims of a contractual or civil nature under any law for the time being in force outside India;
- (f) for responding to a medical emergency involving a threat to the life or immediate threat to the health of the Data Principal or any other individual;
- (g) for taking measures to provide medical treatment or health services to any individual during an epidemic, outbreak of disease, or any other threat to public health:
- (h) for taking measures to ensure safety of, or provide assistance or services to, any individual during any disaster, or any breakdown of public order.

Explanation.—For the purposes of this clause, the expression "disaster" shall have the same meaning as assigned to it in clause (d) of section 2 of the Disaster Management Act, 2005; or

(i) for the purposes of employment or those related to safeguarding the employer from loss or liability, such as prevention of corporate espionage, maintenance of confidentiality of trade secrets, intellectual property, classified information or provision of any service or benefit sought by a Data Principal who is an employee.

8. (1) A Data Fiduciary shall, irrespective of any agreement to the contrary or failure of a Data Principal to carry out the duties provided under this Act, be responsible for complying with the provisions of this Act and the rules made thereunder in respect of any processing undertaken by it or on its behalf by a Data Processor.

General obligations of Data Fiduciary.

- (2) A Data Fiduciary may engage, appoint, use or otherwise involve a Data Processor to process personal data on its behalf for any activity related to offering of goods or services to Data Principals only under a valid contract.
 - (3) Where personal data processed by a Data Fiduciary is likely to be—
 - (a) used to make a decision that affects the Data Principal; or
 - (b) disclosed to another Data Fiduciary,

the Data Fiduciary processing such personal data shall ensure its completeness, accuracy and consistency.

- (4) A Data Fiduciary shall implement appropriate technical and organisational measures to ensure effective observance of the provisions of this Act and the rules made thereunder.
- (5) A Data Fiduciary shall protect personal data in its possession or under its control, including in respect of any processing undertaken by it or on its behalf by a Data Processor, by taking reasonable security safeguards to prevent personal data breach.
- (6) In the event of a personal data breach, the Data Fiduciary shall give the Board and each affected Data Principal, intimation of such breach in such form and manner as may be prescribed.
- (7) A Data Fiduciary shall, unless retention is necessary for compliance with any law for the time being in force,—
 - (a) erase personal data, upon the Data Principal withdrawing her consent or as

53 of 2005.

soon as it is reasonable to assume that the specified purpose is no longer being served, whichever is earlier; and

(b) cause its Data Processor to erase any personal data that was made available by the Data Fiduciary for processing to such Data Processor.

Illustrations.

- (I) X, an individual, registers herself on an online marketplace operated by Y, an e-commerce service provider. X gives her consent to Y for the processing of her personal data for selling her used car. The online marketplace helps conclude the sale. Y shall no longer retain her personal data.
- (II) X, an individual, decides to close her savings account with Y, a bank. Y is required by law applicable to banks to maintain the record of the identity of its clients for a period of ten years beyond closing of accounts. Since retention is necessary for compliance with law, Y shall retain X's personal data for the said period.
- (8) The purpose referred to in clause (a) of sub-section (7) shall be deemed to no longer be served, if the Data Principal does not—
 - (a) approach the Data Fiduciary for the performance of the specified purpose; and
 - (b) exercise any of her rights in relation to such processing,

for such time period as may be prescribed, and different time periods may be prescribed for different classes of Data Fiduciaries and for different purposes.

- (9) A Data Fiduciary shall publish, in such manner as may be prescribed, the business contact information of a Data Protection Officer, if applicable, or a person who is able to answer on behalf of the Data Fiduciary, the questions, if any, raised by the Data Principal about the processing of her personal data.
- (10) A Data Fiduciary shall establish an effective mechanism to redress the grievances of Data Principals.
- (11) For the purposes of this section, it is hereby clarified that a Data Principal shall be considered as not having approached the Data Fiduciary for the performance of the specified purpose, in any period during which she has not initiated contact with the Data Fiduciary for such performance, in person or by way of communication in electronic or physical form.

Processing of personal data of children. **9.** (1) The Data Fiduciary shall, before processing any personal data of a child or a person with disability who has a lawful guardian obtain verifiable consent of the parent of such child or the lawful guardian, as the case may be, in such manner as may be prescribed.

Explanation.—For the purpose of this sub-section, the expression "consent of the parent" includes the consent of lawful guardian, wherever applicable.

- (2) A Data Fiduciary shall not undertake such processing of personal data that is likely to cause any detrimental effect on the well-being of a child.
- (3) A Data Fiduciary shall not undertake tracking or behavioural monitoring of children or targeted advertising directed at children.
- (4) The provisions of sub-sections (1) and (3) shall not be applicable to processing of personal data of a child by such classes of Data Fiduciaries or for such purposes, and subject to such conditions, as may be prescribed.
- (5) The Central Government may, if satisfied that a Data Fiduciary has ensured that its processing of personal data of children is done in a manner that is verifiably safe, notify for such processing by such Data Fiduciary the age above which that Data Fiduciary shall be exempt from the applicability of all or any of the obligations under sub-sections (1) and (3) in respect of processing by that Data Fiduciary as the notification may specify.
- **10.** (*I*) The Central Government may notify any Data Fiduciary or class of Data Fiduciaries as Significant Data Fiduciary, on the basis of an assessment of such relevant factors as it may determine, including—

Additional obligations of Significant Data Fiduciary.

- (a) the volume and sensitivity of personal data processed;
- (b) risk to the rights of Data Principal;
- (c) potential impact on the sovereignty and integrity of India;
- (d) risk to electoral democracy;
- (e) security of the State; and
- (f) public order.
- (2) The Significant Data Fiduciary shall—
 - (a) appoint a Data Protection Officer who shall—
 - (i) represent the Significant Data Fiduciary under the provisions of this Act;
 - (ii) be based in India;
 - (iii) be an individual responsible to the Board of Directors or similar governing body of the Significant Data Fiduciary; and
 - (iv) be the point of contact for the grievance redressal mechanism under the provisions of this Act;
- (b) appoint an independent data auditor to carry out data audit, who shall evaluate the compliance of the Significant Data Fiduciary in accordance with the provisions of this Act; and
 - (c) undertake the following other measures, namely:—
 - (i) periodic Data Protection Impact Assessment, which shall be a process comprising a description of the rights of Data Principals and the purpose of processing of their personal data, assessment and management of the risk to the rights of the Data Principals, and such other matters regarding such process as may be prescribed;
 - (ii) periodic audit; and
 - (iii) such other measures, consistent with the provisions of this Act, as may be prescribed.

CHAPTER III

RIGHTS AND DUTIES OF DATA PRINCIPAL

11. (1) The Data Principal shall have the right to obtain from the Data Fiduciary to Right to whom she has previously given consent, including consent as referred to in clause (a) of section 7 (hereinafter referred to as the said Data Fiduciary), for processing of personal data, upon making to it a request in such manner as may be prescribed,—

access information about personal data.

- (a) a summary of personal data which is being processed by such Data Fiduciary and the processing activities undertaken by that Data Fiduciary with respect to such personal data;
- (b) the identities of all other Data Fiduciaries and Data Processors with whom the personal data has been shared by such Data Fiduciary, along with a description of the personal data so shared; and
- (c) any other information related to the personal data of such Data Principal and its processing, as may be prescribed.
- (2) Nothing contained in clause (b) or clause (c) of sub-section (1) shall apply in respect of the sharing of any personal data by the said Data Fiduciary with any other Data Fiduciary authorised by law to obtain such personal data, where such sharing is pursuant

to a request made in writing by such other Data Fiduciary for the purpose of prevention or detection or investigation of offences or cyber incidents, or for prosecution or punishment of offences.

Right to correction and erasure of personal data.

- 12. (1) A Data Principal shall have the right to correction, completion, updating and erasure of her personal data for the processing of which she has previously given consent, including consent as referred to in clause (a) of section 7, in accordance with any requirement or procedure under any law for the time being in force.
- (2) A Data Fiduciary shall, upon receiving a request for correction, completion or updating from a Data Principal,—
 - (a) correct the inaccurate or misleading personal data;
 - (b) complete the incomplete personal data; and
 - (c) update the personal data.
- (3) A Data Principal shall make a request in such manner as may be prescribed to the Data Fiduciary for erasure of her personal data, and upon receipt of such a request, the Data Fiduciary shall erase her personal data unless retention of the same is necessary for the specified purpose or for compliance with any law for the time being in force.

Right of grievance redressal.

- 13. (1) A Data Principal shall have the right to have readily available means of grievance redressal provided by a Data Fiduciary or Consent Manager in respect of any act or omission of such Data Fiduciary or Consent Manager regarding the performance of its obligations in relation to the personal data of such Data Principal or the exercise of her rights under the provisions of this Act and the rules made thereunder.
- (2) The Data Fiduciary or Consent Manager shall respond to any grievances referred to in sub-section (1) within such period as may be prescribed from the date of its receipt for all or any class of Data Fiduciaries.
- (3) The Data Principal shall exhaust the opportunity of redressing her grievance under this section before approaching the Board.

Right to nominate.

- **14.** (*I*) A Data Principal shall have the right to nominate, in such manner as may be prescribed, any other individual, who shall, in the event of death or incapacity of the Data Principal, exercise the rights of the Data Principal in accordance with the provisions of this Act and the rules made thereunder.
- (2) For the purposes of this section, the expression "incapacity" means inability to exercise the rights of the Data Principal under the provisions of this Act or the rules made thereunder due to unsoundness of mind or infirmity of body.

Duties of Data Principal.

- 15. A Data Principal shall perform the following duties, namely:—
- (a) comply with the provisions of all applicable laws for the time being in force while exercising rights under the provisions of this Act;
- (b) to ensure not to impersonate another person while providing her personal data for a specified purpose;
- (c) to ensure not to suppress any material information while providing her personal data for any document, unique identifier, proof of identity or proof of address issued by the State or any of its instrumentalities;
- (d) to ensure not to register a false or frivolous grievance or complaint with a Data Fiduciary or the Board; and
- (e) to furnish only such information as is verifiably authentic, while exercising the right to correction or erasure under the provisions of this Act or the rules made thereunder.

CHAPTER IV

SPECIAL PROVISIONS

16. (1) The Central Government may, by notification, restrict the transfer of personal Processing of data by a Data Fiduciary for processing to such country or territory outside India as may be personal data so notified.

outside India.

- (2) Nothing contained in this section shall restrict the applicability of any law for the time being in force in India that provides for a higher degree of protection for or restriction on transfer of personal data by a Data Fiduciary outside India in relation to any personal data or Data Fiduciary or class thereof.
- 17. (1) The provisions of Chapter II, except sub-sections (1) and (5) of section 8, and Exemptions. those of Chapter III and section 16 shall not apply where-

- (a) the processing of personal data is necessary for enforcing any legal right or claim:
- (b) the processing of personal data by any court or tribunal or any other body in India which is entrusted by law with the performance of any judicial or quasi-judicial or regulatory or supervisory function, where such processing is necessary for the performance of such function;
- (c) personal data is processed in the interest of prevention, detection, investigation or prosecution of any offence or contravention of any law for the time being in force in India;
- (d) personal data of Data Principals not within the territory of India is processed pursuant to any contract entered into with any person outside the territory of India by any person based in India;
- (e) the processing is necessary for a scheme of compromise or arrangement or merger or amalgamation of two or more companies or a reconstruction by way of demerger or otherwise of a company, or transfer of undertaking of one or more company to another company, or involving division of one or more companies, approved by a court or tribunal or other authority competent to do so by any law for the time being in force; and
- (f) the processing is for the purpose of ascertaining the financial information and assets and liabilities of any person who has defaulted in payment due on account of a loan or advance taken from a financial institution, subject to such processing being in accordance with the provisions regarding disclosure of information or data in any other law for the time being in force.

Explanation.—For the purposes of this clause, the expressions "default" and "financial institution" shall have the meanings respectively assigned to them in sub-sections (12) and (14) of section 3 of the Insolvency and Bankruptcy Code, 2016.

Illustration.

X, an individual, takes a loan from Y, a bank. X defaults in paying her monthly loan repayment instalment on the date on which it falls due. Y may process the personal data of X for ascertaining her financial information and assets and liabilities.

- (2) The provisions of this Act shall not apply in respect of the processing of personal data-
 - (a) by such instrumentality of the State as the Central Government may notify, in the interests of sovereignty and integrity of India, security of the State, friendly relations with foreign States, maintenance of public order or preventing incitement to any cognizable offence relating to any of these, and the processing by the Central Government of any personal data that such instrumentality may furnish to it; and

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- (b) necessary for research, archiving or statistical purposes if the personal data is not to be used to take any decision specific to a Data Principal and such processing is carried on in accordance with such standards as may be prescribed.
- (3) The Central Government may, having regard to the volume and nature of personal data processed, notify certain Data Fiduciaries or class of Data Fiduciaries, including startups, as Data Fiduciaries to whom the provisions of section 5, sub-sections (3) and (7) of section 8 and sections 10 and 11 shall not apply.

Explanation.—For the purposes of this sub-section, the term "startup" means a private limited company or a partnership firm or a limited liability partnership incorporated in India, which is eligible to be and is recognised as such in accordance with the criteria and process notified by the department to which matters relating to startups are allocated in the Central Government.

- (4) In respect of processing by the State or any instrumentality of the State, the provisions of sub-section (7) of section 8 and sub-section (3) of section 12 and, where such processing is for a purpose that does not include making of a decision that affects the Data Principal, sub-section (2) of section 12 shall not apply.
- (5) The Central Government may, before expiry of five years from the date of commencement of this Act, by notification, declare that any provision of this Act shall not apply to such Data Fiduciary or classes of Data Fiduciaries for such period as may be specified in the notification.

CHAPTER V

DATA PROTECTION BOARD OF INDIA

Establishment of Board.

Composition

qualifications for

appointment

and Members.

and

of Chairperson

- **18.** (*I*) With effect from such date as the Central Government may, by notification, appoint, there shall be established, for the purposes of this Act, a Board to be called the Data Protection Board of India.
- (2) The Board shall be a body corporate by the name aforesaid, having perpetual succession and a common seal, with power, subject to the provisions of this Act, to acquire, hold and dispose of property, both movable and immovable, and to contract and shall, by the said name, sue or be sued.
- (3) The headquarters of the Board shall be at such place as the Central Government may notify.
- **19.** (*I*) The Board shall consist of a Chairperson and such number of other Members as the Central Government may notify.
- (2) The Chairperson and other Members shall be appointed by the Central Government in such manner as may be prescribed.
- (3) The Chairperson and other Members shall be a person of ability, integrity and standing who possesses special knowledge or practical experience in the fields of data governance, administration or implementation of laws related to social or consumer protection, dispute resolution, information and communication technology, digital economy, law, regulation or techno-regulation, or in any other field which in the opinion of the Central Government may be useful to the Board, and at least one among them shall be an expert in the field of law.

Salary, allowances payable to and term of office.

- **20.** (1) The salary, allowances and other terms and conditions of service of the Chairperson and other Members shall be such as may be prescribed, and shall not be varied to their disadvantage after their appointment.
- (2) The Chairperson and other Members shall hold office for a term of two years and shall be eligible for re-appointment.

- **21.** (1) A person shall be disqualified for being appointed and continued as the Chairperson or a Member, if she-
 - (a) has been adjudged as an insolvent;
 - (b) has been convicted of an offence, which in the opinion of the Central Government, involves moral turpitude;
 - (c) has become physically or mentally incapable of acting as a Member;
 - (d) has acquired such financial or other interest, as is likely to affect prejudicially her functions as a Member; or
 - (e) has so abused her position as to render her continuance in office prejudicial to the public interest.
- (2) The Chairperson or Member shall not be removed from her office by the Central Government unless she has been given an opportunity of being heard in the matter.
- **22.** (1) The Chairperson or any other Member may give notice in writing to the Central Government of resigning from her office, and such resignation shall be effective from the date on which the Central Government permits her to relinquish office, or upon expiry of a period of three months from the date of receipt of such notice, or upon a duly appointed successor entering upon her office, or upon the expiry of the term of her office, whichever is earliest.

Resignation by Members and filling of vacancy.

Disqualifications

appointment

Chairperson

and Members

of Board.

and continuation

- (2) A vacancy caused by the resignation or removal or death of the Chairperson or any other Member, or otherwise, shall be filled by fresh appointment in accordance with the provisions of this Act.
- (3) The Chairperson and any other Member shall not, for a period of one year from the date on which they cease to hold such office, except with the previous approval of the Central Government, accept any employment, and shall also disclose to the Central Government any subsequent acceptance of employment with any Data Fiduciary against whom proceedings were initiated by or before such Chairperson or other Member.
- **23.** (1) The Board shall observe such procedure in regard to the holding of and Proceedings transaction of business at its meetings, including by digital means, and authenticate its orders, directions and instruments in such manner as may be prescribed.

- (2) No act or proceeding of the Board shall be invalid merely by reason of—
 - (a) any vacancy in or any defect in the constitution of the Board;
- (b) any defect in the appointment of a person acting as the Chairperson or other Member of the Board; or
- (c) any irregularity in the procedure of the Board, which does not affect the merits of the case.
- (3) When the Chairperson is unable to discharge her functions owing to absence, illness or any other cause, the senior-most Member shall discharge the functions of the Chairperson until the date on which the Chairperson resumes her duties.
- 24. The Board may, with previous approval of the Central Government, appoint such officers and employees as it may deem necessary for the efficient discharge of its functions under the provisions of this Act, on such terms and conditions of appointment and service as may be prescribed.

Officers and employees of Board.

25. The Chairperson, Members, officers and employees of the Board shall be deemed, when acting or purporting to act in pursuance of provisions of this Act, to be public servants within the meaning of section 21 of the Indian Penal Code.

Members and officers to be public servants.

Powers of Chairperson.

- **26.** The Chairperson shall exercise the following powers, namely:—
- (a) general superintendence and giving direction in respect of all administrative matters of the Board;
- (b) authorise any officer of the Board to scrutinise any intimation, complaint, reference or correspondence addressed to the Board; and
- (c) authorise performance of any of the functions of the Board and conduct any of its proceedings, by an individual Member or groups of Members and to allocate proceedings among them.

CHAPTER VI

Powers, functions and procedure to be followed by Board

Powers and functions of Board.

- **27.** (*I*) The Board shall exercise and perform the following powers and functions, namely:—
 - (a) on receipt of an intimation of personal data breach under sub-section (6) of section 8, to direct any urgent remedial or mitigation measures in the event of a personal data breach, and to inquire into such personal data breach and impose penalty as provided in this Act;
 - (b) on a complaint made by a Data Principal in respect of a personal data breach or a breach in observance by a Data Fiduciary of its obligations in relation to her personal data or the exercise of her rights under the provisions of this Act, or on a reference made to it by the Central Government or a State Government, or in compliance of the directions of any court, to inquire into such breach and impose penalty as provided in this Act;
 - (c) on a complaint made by a Data Principal in respect of a breach in observance by a Consent Manager of its obligations in relation to her personal data, to inquire into such breach and impose penalty as provided in this Act;
 - (d) on receipt of an intimation of breach of any condition of registration of a Consent Manager, to inquire into such breach and impose penalty as provided in this Act; and
 - (e) on a reference made by the Central Government in respect of the breach in observance of the provisions of sub-section (2) of section 37 by an intermediary, to inquire into such breach and impose penalty as provided in this Act.
- (2) The Board may, for the effective discharge of its functions under the provisions of this Act, after giving the person concerned an opportunity of being heard and after recording reasons in writing, issue such directions as it may consider necessary to such person, who shall be bound to comply with the same.
- (3) The Board may, on a representation made to it by a person affected by a direction issued under sub-section (1) or sub-section (2), or on a reference made by the Central Government, modify, suspend, withdraw or cancel such direction and, while doing so, impose such conditions as it may deem fit, subject to which the modification, suspension, withdrawal or cancellation shall have effect.

Procedure to be followed by Board.

- **28.** (1) The Board shall function as an independent body and shall, as far as practicable, function as a digital office, with the receipt of complaints and the allocation, hearing and pronouncement of decisions in respect of the same being digital by design, and adopt such techno-legal measures as may be prescribed.
- (2) The Board may, on receipt of an intimation or complaint or reference or directions as referred to in sub-section (1) of section 27, take action in accordance with the provisions of this Act and the rules made thereunder.

- (3) The Board shall determine whether there are sufficient grounds to proceed with an inquiry.
- (4) In case the Board determines that there are insufficient grounds, it may, for reasons to be recorded in writing, close the proceedings.
- (5) In case the Board determines that there are sufficient grounds to proceed with inquiry, it may, for reasons to be recorded in writing, inquire into the affairs of any person for ascertaining whether such person is complying with or has complied with the provisions of this Act.
- (6) The Board shall conduct such inquiry following the principles of natural justice and shall record reasons for its actions during the course of such inquiry.
- (7) For the purposes of discharging its functions under this Act, the Board shall have the same powers as are vested in a civil court under the Code of Civil Procedure, 1908, in respect of matters relating to—
 - (a) summoning and enforcing the attendance of any person and examining her on oath;
 - (b) receiving evidence of affidavit requiring the discovery and production of documents;
 - (c) inspecting any data, book, document, register, books of account or any other document; and
 - (d) such other matters as may be prescribed.
- (8) The Board or its officers shall not prevent access to any premises or take into custody any equipment or any item that may adversely affect the day-to-day functioning of a person.
- (9) The Board may require the services of any police officer or any officer of the Central Government or a State Government to assist it for the purposes of this section and it shall be the duty of every such officer to comply with such requisition.
- (10) During the course of the inquiry, if the Board considers it necessary, it may for reasons to be recorded in writing, issue interim orders after giving the person concerned an opportunity of being heard.
- (11) On completion of the inquiry and after giving the person concerned an opportunity of being heard, the Board may for reasons to be recorded in writing, either close the proceedings or proceed in accordance with section 33.
- (12) At any stage after receipt of a complaint, if the Board is of the opinion that the complaint is false or frivolous, it may issue a warning or impose costs on the complainant.

CHAPTER VII

APPEAL AND ALTERNATE DISPUTE RESOLUTION

29. (*1*) Any person aggrieved by an order or direction made by the Board under this Act may prefer an appeal before the Appellate Tribunal.

Appeal to Appellate Tribunal.

- (2) Every appeal under sub-section (1) shall be filed within a period of sixty days from the date of receipt of the order or direction appealed against and it shall be in such form and manner and shall be accompanied by such fee as may be prescribed.
- (3) The Appellate Tribunal may entertain an appeal after the expiry of the period specified in sub-section (2), if it is satisfied that there was sufficient cause for not preferring the appeal within that period.
- (4) On receipt of an appeal under sub-section (I), the Appellate Tribunal may, after giving the parties to the appeal, an opportunity of being heard, pass such orders thereon as it thinks fit, confirming, modifying or setting aside the order appealed against.

5 of 1908.

- (5) The Appellate Tribunal shall send a copy of every order made by it to the Board and to the parties to the appeal.
- (6) The appeal filed before the Appellate Tribunal under sub-section (1) shall be dealt with by it as expeditiously as possible and endeavour shall be made by it to dispose of the appeal finally within six months from the date on which the appeal is presented to it.
- (7) Where any appeal under sub-section (6) could not be disposed of within the period of six months, the Appellate Tribunal shall record its reasons in writing for not disposing of the appeal within that period.
- (8) Without prejudice to the provisions of section 14A and section 16 of the Telecom Regulatory Authority of India Act, 1997, the Appellate Tribunal shall deal with an appeal 24 of 1997. under this section in accordance with such procedure as may be prescribed.

(9) Where an appeal is filed against the orders of the Appellate Tribunal under this Act, the provisions of section 18 of the Telecom Regulatory Authority of India Act, 1997 24 of 1997. shall apply.

- (10) In respect of appeals filed under the provisions of this Act, the Appellate Tribunal shall, as far as practicable, function as a digital office, with the receipt of appeal, hearing and pronouncement of decisions in respect of the same being digital by design.
- **30.** (1) An order passed by the Appellate Tribunal under this Act shall be executable by it as a decree of civil court, and for this purpose, the Appellate Tribunal shall have all the powers of a civil court.
- (2) Notwithstanding anything contained in sub-section (1), the Appellate Tribunal may transmit any order made by it to a civil court having local jurisdiction and such civil court shall execute the order as if it were a decree made by that court.

Alternate dispute resolution.

Orders passed by Appellate

Tribunal to be

executable as decree.

> 31. If the Board is of the opinion that any complaint may be resolved by mediation, it may direct the parties concerned to attempt resolution of the dispute through such mediation by such mediator as the parties may mutually agree upon, or as provided for under any law for the time being in force in India.

Voluntary undertaking

- **32.** (1) The Board may accept a voluntary undertaking in respect of any matter related to observance of the provisions of this Act from any person at any stage of a proceeding under section 28.
- (2) The voluntary undertaking referred to in sub-section (1) may include an undertaking to take such action within such time as may be determined by the Board, or refrain from taking such action, and or publicising such undertaking.
- (3) The Board may, after accepting the voluntary undertaking and with the consent of the person who gave the voluntary undertaking vary the terms included in the voluntary undertaking.
- (4) The acceptance of the voluntary undertaking by the Board shall constitute a bar on proceedings under the provisions of this Act as regards the contents of the voluntary undertaking, except in cases covered by sub-section (5).
- (5) Where a person fails to adhere to any term of the voluntary undertaking accepted by the Board, such breach shall be deemed to be breach of the provisions of this Act and the Board may, after giving such person an opportunity of being heard, proceed in accordance with the provisions of section 33.

CHAPTER VIII

PENALTIES AND ADJUDICATION

Penalties.

33. (1) If the Board determines on conclusion of an inquiry that breach of the provisions of this Act or the rules made thereunder by a person is significant, it may, after giving the person an opportunity of being heard, impose such monetary penalty specified in the Schedule.

- (2) While determining the amount of monetary penalty to be imposed under sub-section (1), the Board shall have regard to the following matters, namely:—
 - (a) the nature, gravity and duration of the breach;
 - (b) the type and nature of the personal data affected by the breach;
 - (c) repetitive nature of the breach;
 - (d) whether the person, as a result of the breach, has realised a gain or avoided any loss;
 - (e) whether the person took any action to mitigate the effects and consequences of the breach, and the timeliness and effectiveness of such action;
 - (f) whether the monetary penalty to be imposed is proportionate and effective, having regard to the need to secure observance of and deter breach of the provisions of this Act; and
 - (g) the likely impact of the imposition of the monetary penalty on the person.
- **34.** All sums realised by way of penalties imposed by the Board under this Act, shall Crediting sums be credited to the Consolidated Fund of India.

Crediting sums realised by way of penalties to Consolidated Fund of India.

CHAPTER IX

MISCELLANEOUS

35. No suit, prosecution or other legal proceedings shall lie against the Central Government, the Board, its Chairperson and any Member, officer or employee thereof for anything which is done or intended to be done in good faith under the provisions of this Act or the rules made thereunder.

Protection of action taken in good faith.

36. The Central Government may, for the purposes of this Act, require the Board and any Data Fiduciary or intermediary to furnish such information as it may call for.

Power to call for information.

37. (1) The Central Government or any of its officers specially authorised by it in this behalf may, upon receipt of a reference in writing from the Board that—

Power of Central Government to issue directions.

- (a) intimates the imposition of monetary penalty by the Board on a Data Fiduciary in two or more instances; and
- (b) advises, in the interests of the general public, the blocking for access by the public to any information generated, transmitted, received, stored or hosted, in any computer resource that enables such Data Fiduciary to carry on any activity relating to offering of goods or services to Data Principals within the territory of India,

after giving an opportunity of being heard to that Data Fiduciary, on being satisfied that it is necessary or expedient so to do, in the interests of the general public, for reasons to be recorded in writing, by order, direct any agency of the Central Government or any intermediary to block for access by the public or cause to be blocked for access by the public any such information.

- (2) Every intermediary who receives a direction issued under sub-section (I) shall be bound to comply with the same.
- (3) For the purposes of this section, the expressions "computer resource", "information" and "intermediary" shall have the meanings respectively assigned to them in the Information Technology Act, 2000.

Consistency with other laws.

- **38.** (1) The provisions of this Act shall be in addition to and not in derogation of any other law for the time being in force.
- (2) In the event of any conflict between a provision of this Act and a provision of any other law for the time being in force, the provision of this Act shall prevail to the extent of such conflict.

Bar of jurisdiction.

39. No civil court shall have the jurisdiction to entertain any suit or proceeding in respect of any matter for which the Board is empowered under the provisions of this Act and no injunction shall be granted by any court or other authority in respect of any action taken or to be taken in pursuance of any power under the provisions of this Act.

Power to make rules.

- **40.** (1) The Central Government may, by notification, and subject to the condition of previous publication, make rules not inconsistent with the provisions of this Act, to carry out the purposes of this Act.
- (2) In particular and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely:—
 - (a) the manner in which the notice given by the Data Fiduciary to a Data Principal shall inform her, under sub-section (1) of section 5;
 - (b) the manner in which the notice given by the Data Fiduciary to a Data Principal shall inform her, under sub-section (2) of section 5;
 - (c) the manner of accountability and the obligations of Consent Manager under sub-section (8) of section 6;
 - (d) the manner of registration of Consent Manager and the conditions relating thereto, under sub-section (9) of section 6;
 - (e) the subsidy, benefit, service, certificate, licence or permit for the provision or issuance of which, personal data may be processed under clause (b) of section 7;
 - (f) the form and manner of intimation of personal data breach to the Board under sub-section (6) of section 8;
 - (g) the time period for the specified purpose to be deemed as no longer being served, under sub-section (8) of section 8;
 - (h) the manner of publishing the business contact information of a Data Protection Officer under sub-section (9) of section 8;
 - (i) the manner of obtaining verifiable consent under sub-section (1) of section 9;
 - (*j*) the classes of Data Fiduciaries, the purposes of processing of personal data of a child and the conditions relating thereto, under sub-section (*4*) of section 9;
 - (k) the other matters comprising the process of Data Protection Impact Assessment under sub-clause (i) of clause (c) of sub-section (2) of section 10;
 - (*l*) the other measures that the Significant Data Fiduciary shall undertake under sub-clause (*iii*) of clause (*c*) of sub-section (2) of section 10;
 - (m) the manner in which a Data Principal shall make a request to the Data Fiduciary to obtain information and any other information related to the personal data of such Data Principal and its processing, under sub-section (1) of section 11;
 - (n) the manner in which a Data Principal shall make a request to the Data Fiduciary for erasure of her personal data under sub-section (3) of section 12;
 - (o) the period within which the Data Fiduciary shall respond to any grievances under sub-section (2) of section 13;

- (p) the manner of nomination of any other individual by the Data Principal under sub-section (1) of section 14;
- (q) the standards for processing the personal data for exemption under clause (b) of sub-section (2) of section 17;
- (r) the manner of appointment of the Chairperson and other Members of the Board under sub-section (2) of section 19;
- (s) the salary, allowances and other terms and conditions of services of the Chairperson and other Members of the Board under sub-section (1) of section 20;
- (t) the manner of authentication of orders, directions and instruments under sub-section (1) of section 23;
- (u) the terms and conditions of appointment and service of officers and employees of the Board under section 24;
- (ν) the techno-legal measures to be adopted by the Board under sub-section (I) of section 28;
 - (w) the other matters under clause (d) of sub-section (7) of section 28;
- (x) the form, manner and fee for filing an appeal under sub-section (2) of section 29;
 - (y) the procedure for dealing an appeal under sub-section (8) of section 29;
- (z) any other matter which is to be or may be prescribed or in respect of which provision is to be, or may be, made by rules.
- 41. Every rule made and every notification issued under section 16 and section 42 of Laying of this Act shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or notification or both Houses agree that the rule or notification should not be made or issued, the rule or notification shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule or notification.

certain notifications.

42. (1) The Central Government may, by notification, amend the Schedule, subject to the restriction that no such notification shall have the effect of increasing any penalty specified therein to more than twice of what was specified in it when this Act was originally enacted.

Power to amend Schedule.

- (2) Any amendment notified under sub-section (1) shall have effect as if enacted in this Act and shall come into force on the date of the notification.
- **43.** (1) If any difficulty arises in giving effect to the provisions of this Act, the Central Government may, by order published in the Official Gazette, make such provisions not inconsistent with the provisions of this Act as may appear to it to be necessary or expedient for removing the difficulty.

remove difficulties.

- (2) No order as referred to in sub-section (1) shall be made after the expiry of three years from the date of commencement of this Act.
- (3) Every order made under this section shall be laid, as soon as may be after it is made, before each House of Parliament.
- **44.** (1) In section 14 of the Telecom Regulatory Authority of India Act, 1997, in clause (c), for sub-clauses (i) and (ii), the following sub-clauses shall be substituted, namely:-

Amendments to certain Acts.

24 of 1997.

- "(i) the Appellate Tribunal under the Information Technology Act, 2000;
- 21 of 2000.
- (ii) the Appellate Tribunal under the Airports Economic Regulatory Authority of India Act, 2008; and

27 of 2008.

- (iii) the Appellate Tribunal under the Digital Personal Data Protection Act, 2023.".
- (2) The Information Technology Act, 2000 shall be amended in the following manner, 21 of 2000. namely:—
 - (a) section 43A shall be omitted;
 - (b) in section 81, in the proviso, after the words and figures "the Patents Act, 1970", the words and figures "or the Digital Personal Data Protection Act, 2023" 39 of 1970. shall be inserted; and
 - (c) in section 87, in sub-section (2), clause (ob) shall be omitted.
- (3) In section 8 of the Right to Information Act, 2005, in sub-section (1), for clause (j), 22 of 2005. the following clause shall be substituted, namely:—
 - "(*j*) information which relates to personal information;".

THE SCHEDULE

[See section 33 (1)]

Sl. No.	Breach of provisions of this Act or rules made thereunder	Penalty
(1)	(2)	(3)
1.	Breach in observing the obligation of Data Fiduciary to take reasonable security safeguards to prevent personal data breach under sub-section (5) of section 8.	May extend to two hundred and fifty crore rupees.
2.	Breach in observing the obligation to give the Board or affected Data Principal notice of a personal data breach under sub-section (6) of section 8.	May extend to two hundred crore rupees.
3.	Breach in observance of additional obligations in relation to children under section 9.	May extend to two hundred crore rupees.
4.	Breach in observance of additional obligations of Significant Data Fiduciary under section 10.	May extend to one hundred and fifty crore rupees.
5.	Breach in observance of the duties under section 15.	May extend to ten thousand rupees.
6.	Breach of any term of voluntary undertaking accepted by the Board under section 32.	Up to the extent applicable for the breach in respect of which the proceedings under section 28 were instituted.
7.	Breach of any other provision of this Act or the rules made thereunder.	May extend to fifty crore rupees.

DR. REETA VASISHTA, Secretary to the Govt. of India.

ಕರ್ನಾಟಕ ರಾಜ್ಯಪಾಲರ ಆದೇಶಾನುಸಾರ ಮತ್ತು ಅವರ ಹೆಸರಿನಲ್ಲಿ

(ಡಿ.ಬಿ. ಜನಾರ್ಧನ) ಸಹಾಯಕ ಪ್ರಾರೂಪಕಾರ ಮತ್ತು ಪದನಿಮಿತ್ತ ಸರ್ಕಾರದ ಉಪ ಕಾರ್ಯದರ್ಶಿ ಸಂಸದೀಯ ವ್ಯವಹಾರಗಳು ಮತ್ತು ಶಾಸನ ರಚನೆ ಇಲಾಖೆ

PR-54

ಸಂಸದೀಯ ವ್ಯವಹಾರಗಳು ಮತ್ತು ಶಾಸನ ರಚನೆ ಇಲಾಖೆ ಅಧಿಸೂಚನೆ

ಸಂಖ್ಯೆ: ಸಂವ್ಯಶಾಇ 31 ಕೇಶಾಪ್ರ 2023

ಬೆಂಗಳೂರು, ದಿನಾಂಕ:19.08.2023.

ದಿನಾಂಕ: 11.08.2023 ರಂದು ಭಾರತ ಸರ್ಕಾರದ ಗೆಜೆಟ್ನ ವಿಶೇಷ ಸಂಚಿಕೆಯ Part-II-Section-1 ರಲ್ಲಿ ಪ್ರಕಟವಾದ THE INDIAN INSTITUTES OF MANAGEMENT (AMENDMENT) ACT, 2023 (NO. 23 OF 2023) ಅನ್ನು ಸಾರ್ವಜನಿಕರ ಮಾಹಿತಿಗಾಗಿ ಕರ್ನಾಟಕ ರಾಜ್ಯಪತ್ರದಲ್ಲಿ ಮರು ಪ್ರಕಟಿಸಲಾಗಿದೆ,-



सी.जी.-डी.एल.-अ.-12082023-248043 CG-DL-E-12082023-248043

असाधारण

EXTRAORDINARY

भाग II — खण्ड 1

PART II — Section 1

प्राधिकार से प्रकाशित

PUBLISHED BY AUTHORITY

नई दिल्ली, शुक्रवार, अगस्त 11, 2023/ श्रावण 20, 1945 (शक) सं॰ 26] NEW DELHI, FRIDAY, AUGUST 11, 2023/SRAVANA 20, 1945 (SAKA) No. 26]

इस भाग में भिन्न पृष्ठ संख्या दी जाती है जिससे कि यह अलग संकलन के रूप में रखा जा सके। Separate paging is given to this Part in order that it may be filed as a separate compilation.

MINISTRY OF LAW AND JUSTICE (Legislative Department)

New Delhi, the 11th August, 2023/Sravana 20, 1945 (Saka)

The following Act of Parliament received the assent of the President on the 11th August, 2023 and is hereby published for general information:—

THE INDIAN INSTITUTES OF MANAGEMENT (AMENDMENT) ACT, 2023

No. 23 of 2023

[11th August, 2023.]

An Act further to amend the Indian Institutes of Management Act, 2017.

BE it enacted by Parliament in the Seventy-fourth Year of the Republic of India as follows:-

1. (1) This Act may be called the Indian Institutes of Management (Amendment) Short title and Act, 2023.

commencement.

- (2) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.
- 2. In section 4 of the Indian Institutes of Management Act, 2017 (hereinafter referred to as the principal Act), after sub-section (1), the following sub-section shall be inserted, namely:-

Amendment of section 4.

'(1A) On and from the date of commencement of the Indian Institutes of Management (Amendment) Act, 2023, the National Institute of Industrial Engineering, Mumbai, shall be called the "Indian Institute of Management, Mumbai" and all the provisions of this Act shall apply to the said Institute.'.

33 of 2017.

Amendment of section 5.

- 3. In section 5 of the principal Act,—
 - (i) in clause (d),—
 - (a) for the words "every person employed by every existing Institute", the words "every person, other than a Director employed by every existing Institute" shall be substituted;
 - (b) after the second proviso, the following proviso shall be inserted, namely:—

"Provided also that the provisions of the first proviso shall also be applicable to the Directors of the Institutes:":

(ii) after clause (f), the following Explanation shall be inserted, namely:—

'Explanation.—For the removal of doubts, it is hereby clarified that in relation to the Indian Institute of Management, Mumbai, the reference to the following expressions in sections 4 and 5—

- (i) "On and from the commencement of this Act";
- (ii) "before such commencement";
- (iii) "before commencement of this Act"; and
- (iv) "before the commencement of this Act",

shall be construed as the reference to the date on which the provisions of the Indian Institutes of Management (Amendment) Act, 2023 comes into force.'.

Amendment of section 10.

- 4. In section 10 of the principal Act,—
- (a) in sub-section (2), in clause (a), for the words "to be appointed by the Board", the words "to be nominated by the Visitor" shall be substituted;
 - (b) after sub-section (5), the following sub-section shall be inserted, namely:—
 - "(6) Notwithstanding anything contained in this section, if the Board is suspended or dissolved under such conditions or procedure as may be prescribed, the Central Government shall constitute an interim Board for a period of six months or till a regular Board is constituted as per the provisions of this Act.".

Insertion of new section 10A.

5. After section 10 of the principal Act, the following section shall be inserted, namely:—

Visitor.

- "10A. (1) The President of India shall be the Visitor of every Institute.
- (2) The Visitor may appoint one or more persons to review the work and progress of any Institute and to hold inquiries into the affairs thereof and to report thereon in such manner as the Visitor may direct.
- (3) The Board may also recommend to the Visitor, an inquiry as deemed proper against the Institute which has not been functioning in accordance with the provisions and objectives of this Act.
- (4) Upon receipt of any such report referred to in sub-section (2), the Visitor may take such action and issue such directions as he considers necessary in respect of any of the matters dealt with in the report and the Institute shall be bound to comply with such directions."

Amendment of section 12.

- **6.** In section 12 of the principal Act, after sub-section (1), the following sub-section shall be inserted, namely:—
 - "(1A) Notwithstanding anything contained in this section, an outgoing Member shall, unless the Board otherwise directs, continue in office until another person is appointed or nominated as a Member in his place."

7. In section 16 of the principal Act,—

Amendment of section 16.

- (a) in sub-section (2), for the words "appointed by the Board, on such terms", the words "appointed by the Board with prior approval of the Visitor, in such manner and subject to such terms" shall be substituted;
- (b) for sub-section (3), the following sub-sections shall be substituted, namely:—
 - "(3) The Director shall be appointed out of the panel of names recommended by a search-cum-selection committee to be constituted by the Board consisting of—
 - (a) the Chairperson of the Board, who shall be the Chairperson of the search-cum-selection committee;
 - (b) one Member to be nominated by the Visitor; and
 - (c) two Members chosen from amongst eminent administrators, industrialists, educationists, scientists, technocrats and management specialists.
 - (3A) The procedure to be adopted for selection of the Director shall be such as may be prescribed.";
- (c) in sub-section (7), in the opening portion, for the words "The Board may remove from office the Director", the words "The Board, with prior approval of the Visitor, may remove from office the Director" shall be substituted;
 - (d) after sub-section (9), the following sub-section shall be inserted, namely:—
 - "(10) The services of the Director may be terminated by the Visitor, in such manner as may be prescribed.".
- 8. Section 17 of the principal Act shall be omitted.

Omission of section 17.

9. In section 29 of the principal Act, in sub-section (2),—

Amendment of section 29.

- (i) for clause (a), the following clause shall be substituted, namely:—
 - "(a) an eminent person to be nominated by the Visitor as Chairperson;";
- (ii) for clause (d), the following clause shall be substituted, namely:—
 - "(d) the Chairperson of each Institute—Member, ex officio;".
- **10.** In section 34 of the principal Act, in sub-section (2),—

Amendment of section 34.

- (i) for clause (a), the following clauses shall be substituted, namely:—
- "(a) the conditions and the procedure subject to which the Board may be suspended or dissolved under sub-section (6) of section 10;
- (aa) such other powers and duties of the Board under clause (w) of sub-section (2) of section 11;";
- (ii) after clause (b), the following clauses shall be inserted, namely:—
- "(ba) the procedure to be adopted for selection of the Director under sub-section (3A) of section 16;
- (bb) the manner of termination of services of the Director under sub-section (10) of section 16;".

Amendment of section 39.

- 11. In section 39 of the principal Act, in sub-section (I), after clause (c), the following clauses shall be inserted, namely:—
 - "(d) the Board of National Institute of Industrial Engineering, Mumbai, functioning as such immediately before the commencement of the Indian Institutes of Management (Amendment) Act, 2023 shall continue to so function until a new Board is constituted for that Institute under this Act, but on such constitution of a new Board under this Act, the Members of the Board holding office before such constitution shall cease to hold office;
 - (e) the Academic Council constituted in relation to National Institute of Industrial Engineering, Mumbai, before the commencement of the Indian Institutes of Management (Amendment) Act, 2023 shall continue to so function until a new Academic Council is constituted for that Institute under this Act, but on the constitution of a new Academic Council under this Act, the Academic Council of the National Institute of Industrial Engineering, Mumbai shall cease to function;
 - (f) until the first regulations in relation to National Institute of Industrial Engineering, Mumbai are made under this Act, the rules and bye-laws of the National Institute of Industrial Engineering, Mumbai as in force immediately before the commencement of the Indian Institutes of Management (Amendment) Act, 2023 shall continue to apply to the National Institute of Industrial Engineering, Mumbai with necessary modifications and adaptations insofar as they are not inconsistent with the provisions of this Act.".

Amendment of Schedule.

- 12. On and from the date of commencement of the Indian Institutes of Management (Amendment) Act, 2023, in the Schedule to the principal Act, after Sl. No. 20 and the entries relating thereto, the following Sl. No. and entries shall be inserted, namely:—
 - "21. Maharashtra

National Institute Mumbai Indian Institute of Industrial of Management, Engineering, Mumbai, a Society registered under the Societies Registration Act, 1860 (21 of 1860).

DR. REETA VASISHTA, Secretary to the Govt. of India.

ಕರ್ನಾಟಕ ರಾಜ್ಯಪಾಲರ ಆದೇಶಾನುಸಾರ ಮತ್ತು ಅವರ ಹೆಸರಿನಲ್ಲಿ

(ಡಿ.ಬಿ. ಜನಾರ್ಧನ) ಸಹಾಯಕ ಪ್ರಾರೂಪಕಾರ ಮತ್ತು ಪದನಿಮಿತ್ತ ಸರ್ಕಾರದ ಉಪ ಕಾರ್ಯದರ್ಶಿ ಸಂಸದೀಯ ವ್ಯವಹಾರಗಳು ಮತ್ತು ಶಾಸನ ರಚನೆ ಇಲಾಖೆ

PR-55

ಸಂಸದೀಯ ವ್ಯವಹಾರಗಳು ಮತ್ತು ಶಾಸನ ರಚನೆ ಇಲಾಖೆ ಅಧಿಸೂಚನೆ

ಸಂಖ್ಯೆ: ಸಂವ್ಯಶಾಇ 32 ಕೇಶಾಪ್ರ 2023

ಬೆಂಗಳೂರು, ದಿನಾಂಕ:19.08.2023.

ದಿನಾಂಕ: 14.08.2023 ರಂದು ಭಾರತ ಸರ್ಕಾರದ ಗೆಜೆಟ್ನ ವಿಶೇಷ ಸಂಚಿಕೆಯ Part-II-Section-1 ರಲ್ಲಿ ಪ್ರಕಟವಾದ THE CONSTITUTION (SCHEDULED CASTES) ORDER (AMENDMENT) ACT, 2023 (NO. 24 OF 2023) ಅನ್ನು ಸಾರ್ವಜನಿಕರ ಮಾಹಿತಿಗಾಗಿ ಕರ್ನಾಟಕ ರಾಜ್ಯಪತ್ರದಲ್ಲಿ ಮರು ಪ್ರಕಟಿಸಲಾಗಿದೆ,-



सी.जी.-डी.एल.-अ.-14082023**-**248090 CG-DL-E-1**4082023-248090**

असाधारण

EXTRAORDINARY

भाग II — खण्ड 1

PART II — Section 1

प्राधिकार से प्रकाशित

PUBLISHED BY AUTHORITY

सं॰ 27] नई दिल्ली, सोमवार, अगस्त 14, 2023/ श्रावण 23, 1945 (शक) No. 27] NEW DELHI, MONDAY, AUGUST 14, 2023/SRAVANA 23, 1945 (SAKA)

इस भाग में भिन्न पृष्ठ संख्या दी जाती है जिससे कि यह अलग संकलन के रूप में रखा जा सके। Separate paging is given to this Part in order that it may be filed as a separate compilation.

MINISTRY OF LAW AND JUSTICE (Legislative Department)

New Delhi, the 14th August, 2023/Sravana 23, 1945 (Saka)

The following Act of Parliament received the assent of the President on the 12th August, 2023 and is hereby published for general information:—

THE CONSTITUTION (SCHEDULED CASTES) ORDER (AMENDMENT) ACT, 2023

No. 24 of 2023

[12th August, 2023.]

An Act further to amend the Constitution (Scheduled Castes) Order, 1950 to modify the list of Scheduled Castes in the State of Chhattisgarh.

BE it enacted by Parliament in the Seventy-fourth Year of the Republic of India as follows:

1. This Act may be called the Constitution (Scheduled Castes) Order (Amendment) Short title. Act, 2023.

Amendment of Constitution (Scheduled Castes) Order, 1950. **2.** In the Constitution (Scheduled Castes) Order, 1950, in the Schedule, in Part XXIII.— C.O. 19. *Chhattisgarh*, for entry 33, the following entry shall be substituted, namely:—

"33. Mahar, Mahara, Mahra, Mehar, Mehra".

DR. REETA VASISHTA, Secretary to the Govt. of India.

ಕರ್ನಾಟಕ ರಾಜ್ಯಪಾಲರ ಆದೇಶಾನುಸಾರ ಮತ್ತು ಅವರ ಹೆಸರಿನಲ್ಲಿ

(ಡಿ.ಬಿ. ಜನಾರ್ಧನ) ಸಹಾಯಕ ಪ್ರಾರೂಪಕಾರ ಮತ್ತು ಪದನಿಮಿತ್ತ ಸರ್ಕಾರದ ಉಪ ಕಾರ್ಯದರ್ಶಿ ಸಂಸದೀಯ ವ್ಯವಹಾರಗಳು ಮತ್ತು ಶಾಸನ ರಚನೆ ಇಲಾಖೆ

PR-56

ಸಂಸದೀಯ ವ್ಯವಹಾರಗಳು ಮತ್ತು ಶಾಸನ ರಚನೆ ಇಲಾಖೆ ಅಧಿಸೂಚನೆ

ಸಂಖ್ಯೆ: ಸಂವ್ಯಶಾಇ 33 ಕೇಶಾಪ್ರ 2023

ಬೆಂಗಳೂರು, ದಿನಾಂಕ:19.08.2023.

ದಿನಾಂಕ: 14.08.2023 ರಂದು ಭಾರತ ಸರ್ಕಾರದ ಗೆಜೆಟ್ನ ವಿಶೇಷ ಸಂಚಿಕೆಯ Part-II-Section-1 ರಲ್ಲಿ ಪ್ರಕಟವಾದ THE ANUSANDHAN NATIONAL RESEARCH FOUNDATION ACT, 2023 (NO. 25 OF 2023) ಅನ್ನು ಸಾರ್ವಜನಿಕರ ಮಾಹಿತಿಗಾಗಿ ಕರ್ನಾಟಕ ರಾಜ್ಯಪತ್ರದಲ್ಲಿ ಮರು ಪ್ರಕಟಿಸಲಾಗಿದೆ,-



सी.जी.-डी.एल.-अ.-14082023-248091 CG-DL-E-14082023-248091

असाधारण

EXTRAORDINARY

भाग II — खण्ड 1

PART II — Section 1

प्राधिकार से प्रकाशित

PUBLISHED BY AUTHORITY

सं॰ 28]

नई दिल्ली, सोमवार, अगस्त 14, 2023/ श्रावण 23, 1945 (शक)

No. 281

NEW DELHI, MONDAY, AUGUST 14, 2023/SRAVANA 23, 1945 (SAKA)

इस भाग में भिन्न पृष्ठ संख्या दी जाती है जिससे कि यह अलग संकलन के रूप में रखा जा सके। Separate paging is given to this Part in order that it may be filed as a separate compilation.

MINISTRY OF LAW AND JUSTICE (Legislative Department)

New Delhi, the 14th August, 2023/Sravana 23, 1945 (Saka)

The following Act of Parliament received the assent of the President on the 12th August, 2023 and is hereby published for general information:—

THE ANUSANDHAN NATIONAL RESEARCH FOUNDATION ACT, 2023

No. 25 of 2023

[12th August, 2023.]

An Act to establish the Anusandhan National Research Foundation to provide high level strategic direction for research, innovation and entrepreneurship in the fields of natural sciences including mathematical sciences, engineering and technology, environmental and earth sciences, health and agriculture, and scientific and technological interfaces of humanities and social sciences, to promote, monitor and provide support as required for such research and for matters connected therewith or incidental thereto.

BE it enacted by Parliament in the Seventy-fourth Year of the Republic of India as follows:—

CHAPTER I

Preliminary

1. (1) This Act may be called the Anusandhan National Research Foundation Act, 2023.

Short title and commencement.

(2) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint; and different dates may be appointed for different provisions of this Act and any reference in any such provision to the commencement of this Act shall be construed as a reference to the coming into force of that provision.

Definitions.

- 2. In this Act, unless the context otherwise requires,—
- (a) "appointed date" means such date as the Central Government may, by notification, appoint under sub-section (2) of section 1;
- (b) "Chief Executive Officer" means the Chief Executive Officer of the Foundation:
- (c) "Committees" means the Committees of the Executive Council referred to in section 12;
- (d) "Executive Council" means the Council constituted under sub-section (I) of section 7;
- (e) "Foundation" means the Anusandhan National Research Foundation established under section 3;
 - (f) "Funds" means the Funds referred to in sub-section (2) of section 13;
- (g) "Governing Board" means the Governing Board of the Foundation constituted under section 5;
- (h) "Member" means a Member of the Governing Board or the Executive Council and includes the President, Vice-President and Chairperson, as the case may be;
- (i) "notification" means the notification published in the Official Gazette and the expression "notified" shall be construed accordingly;
 - (j) "prescribed" means prescribed by rules made under this Act; and
- (k) "regulations" means the regulations made by the Executive Council under this Act.

CHAPTER II

ANUSANDHAN NATIONAL RESEARCH FOUNDATION

Establishment of Foundation.

- **3.** (1) With effect from such date as the Central Government may, by notification, appoint, there shall be established for the purposes of this Act, a Foundation to be known as the Anusandhan National Research Foundation.
- (2) The Foundation, referred to in sub-section (1), shall be a body corporate, having perpetual succession and a common seal, with power subject to the provisions of this Act, to acquire, hold and dispose of property, both movable and immovable, and to contract and shall, by the said name, sue or be sued.

Objectives of Foundation.

- **4.** (1) Subject to the provisions of this Act, the Foundation shall serve as the apex body to provide high level strategic direction for research, innovation and entrepreneurship in the fields of natural sciences including mathematical sciences, engineering and technology, environmental and earth sciences, health and agriculture, and scientific and technological interfaces of humanities and social sciences.
- (2) Without prejudice to the provisions contained in sub-section (1), the Foundation shall undertake suitable initiatives including the following, namely:—
 - (a) preparing the roadmap for short, medium and long term research and development;
 - (b) seeding, growing and facilitating research at academic and research institutions, particularly at universities and colleges where research capacity is at a nascent stage, through programmes such as research and development projects, fellowships, academic chairs, and creation of centres of excellence;
 - (c) funding competitive peer-reviewed grant proposals to eligible persons;
 - (d) assisting in setting up research infrastructure and environment that is conducive for scientific pursuit with specific focus on matters of national priorities, emerging frontiers and strategic research;

- (e) increasing India's role and participation in key areas of national and global importance;
- (f) supporting translation of research undertaken into capital intensive technologies;
- (g) evolving nationally coordinated programmes to identify scientific and practical solutions for societal, developmental, financial and techno-economic challenges;
- (h) coordinating across the Central Government, State Governments, public authorities, industries, and research institutions, to document and analyse the expenditure on scientific research and their outcomes during each financial year, and report the same to the Central Government;
- (i) evolving participation in international collaborative projects and fostering exchange of scientific information;
- (j) encouraging collaboration with scientists from within and outside India, including scientists of Indian origin, with a view to enrich the Indian scientific ecosystem; and
- (k) encouraging the Public Sector Enterprises as well as the private sector entities to invest in the activities of the Foundation.
- (3) In addition to the objectives referred to in sub-section (2), the Foundation shall also, to the extent practicable, either by itself, or through a suitable agency identified in this behalf, undertake an annual survey of outcomes of scientific research in India, with a view to create a central repository, for the collection, interpretation and analysis of information and data surrounding such research, and the aim of such a repository would include providing information for policy formulation and advising the Central Government and State Governments as well as the private sector:

Provided that the survey referred to in this sub-section shall exclude any strategic areas of research as determined by the Governing Board.

- (4) The Foundation shall perform the aforesaid objectives through a Governing Board constituted under section 5.
- 5. (I) There shall be constituted a Governing Board, which shall provide high level strategic direction, perform and monitor the implementation of the objectives of the Foundation.

Governing Board.

- (2) The Governing Board referred to in sub-section (1) shall consist of the following, namely:—
 - (a) the Prime Minister of India, ex officio—President;
 - (b) the Union Minister of Science and Technology, ex officio—Vice-President;
 - (c) the Union Minister of Education, ex officio—Vice-President;
 - (d) a Member from the NITI Aayog dealing with science and technology, ex officio—Member;
 - (e) Secretary to the Government of India in the Department of Science and Technology, ex officio—Member;
 - (f) Secretary to the Government of India in the Department of Scientific and Industrial Research, ex officio—Member;
 - (g) Secretary to the Government of India in the Department of Biotechnology, ex officio—Member;
 - (h) Secretary to the Government of India in the Department of Higher Education, ex officio—Member; and

- (i) the Principal Scientific Advisor to the Government of India, ex officio—Member-Secretary.
- (3) The President of the Governing Board may nominate or appoint the following Members to the Governing Board, namely:—
 - (a) not exceeding two Members from the Prime Minister's Science, Technology and Innovation Council;
 - (b) not exceeding five Members from business organisation or industry;
 - (c) one Member from the field of humanities and social sciences;
 - (d) not exceeding two Members from institutions engaged in scientific and technological research and development; and
 - (e) not exceeding six experts who have specialised knowledge in the areas of health, mathematical and physical sciences, biological sciences, engineering and technology, innovation and partnership, computer and information sciences, and engineering.
- (4) The qualifications, experience, honorarium and allowances payable to and the other terms and conditions of service of the Members and experts of the Governing Board referred to in sub-section (3) shall be such as may be prescribed.

Meetings of Governing Board.

- **6.** (1) The Governing Board shall meet at such times and places, and shall observe such rules of procedure in regard to the transaction of business at its meetings including quorum at such meetings, as may be specified by the regulations.
- (2) If the President for any reason is unable to attend a meeting of the Governing Board, any of the Vice-Presidents shall preside over the meeting.

Executive Council.

- **7.** (1) The President of the Governing Board shall constitute an Executive Council to implement the provisions of this Act.
- (2) The Executive Council referred to in sub-section (1) shall consist of the following, nominated by the President of the Governing Board, namely:—
 - (a) the Principal Scientific Advisor to the Government of India, ex officio—Chairperson;
 - (b) Secretary to the Government of India in the Department of Science and Technology, ex officio—Member;
 - (c) Secretary to the Government of India in the Department of Biotechnology, ex officio—Member;
 - (d) Secretary to the Government of India in the Department of scientific and Industrial Research, ex officio—Member;
 - (e) Secretary to the Government of India in the Ministry of Earth Sciences, ex officio—Member;
 - (f) Secretary to the Government of India in the Department of Higher Education, $ex\ officio$ —Member;
 - (g) Secretary to the Government of India in the Department of Health Research, ex officio—Member;
 - (h) Secretary to the Government of India in the Department of Defence Research and Development, ex officio—Member;
 - (i) Secretary to the Government of India in the Department of Atomic Energy, ex officio—Member;
 - (j) Secretary to the Government of India in the Department of Space, ex officio—Member;
 - (k) Secretary to the Government of India in the Department of Agricultural Research and Education, ex officio—Member; and

- (*l*) the Chief Executive Officer of the Foundation appointed under section 11, *ex officio*—Member-Secretary.
- (3) The President of the Governing Board may also nominate or appoint the following Members to the Executive Council, namely:—
 - (a) not exceeding two *ex officio* Members amongst Secretaries of such other Departments or Ministries of the Government of India, not referred to in sub-section (2), as may be notified by the Central Government; and
 - (b) not exceeding three Members amongst distinguished experts who have specialised knowledge in the areas of science and technology in academia, philanthropic sector, research laboratories and industries.
- (4) The qualifications, experience, honorarium and allowances payable to and the other terms and conditions of service of the Members of the Executive Council referred to in clause (b) of sub-section (3) shall be such as may be prescribed.
- 8. (1) The Executive Council shall meet at such times and places, and shall observe such rules of procedure in regard to the transaction of business at its meetings including quorum at such meetings, as may be specified by the regulations.

Meetings of Executive Council.

Vacancies, etc., not to

invalidate

Board or Executive

Council.

proceedings of Governing

- (2) If the Chairperson for any reason is unable to attend a meeting of the Executive Council, the Member chosen by other Members shall preside over the meeting.
- (3) The Chairperson shall, in addition to presiding over the meetings of the Executive Council, exercise and discharge such powers and duties, as may be delegated by the Governing Board.
- **9.** No act or proceeding of the Governing Board or the Executive Council shall be invalidated merely by reason of—
 - (a) any vacancy in, or any defect in the constitution of the Governing Board or the Executive Council;
 - (b) any defect in the appointment of a person acting as a Member of the Governing Board or the Executive Council; and
 - (c) any irregularity in the procedure of the Governing Board or the Executive Council not affecting the merits of the case.
- **10.** The Executive Council shall implement the objectives of the Foundation based on the policy direction and guidance provided by the Governing Board, including the following functions, namely:—

Functions of Executive Council.

- (a) to consider applications for the grant of financial assistance in accordance with the eligibility criteria as determined necessary for such grants;
 - (b) to determine through regulations,—
 - (i) the requirements for registration, the form and manner for making of applications for financial assistance;
 - (ii) reports and certification to be furnished pursuant to availing the financial assistance;
 - (iii) the requirements of extension of financial assistance; and
 - (iv) the grounds for revocation of financial assistance;
- (c) to facilitate and provide any assistance as may be required to ensure filing of applications for intellectual property rights pursuant to the research undertaken through financial assistance under this Act; and
- (d) any other function as may be delegated to it from time to time by the Governing Board.

Chief Executive Officer and other officers and employees of Foundation.

- **11.** (*I*) The President of the Governing Board may appoint a Chief Executive Officer, not below the rank of Additional Secretary to the Government of India, for efficient administration of the Foundation.
- (2) The qualifications, experience, salary and allowances payable to and the other terms and conditions of service of the Chief Executive Officer shall be such as may be prescribed.
- (3) The Executive Council may appoint such other officers and employees as it considers necessary for the efficient discharge of its functions under this Act.
- (4) The qualifications, experience, salary and allowances payable to and the other terms and conditions of service of the other officers and employees of the Foundation shall be such as may be prescribed.
- (5) The Executive Council may engage the services of such persons, both from within and outside India, as consultants and visiting scientists to the Foundation.
- (6) The eligibility criteria and honorarium payable to the consultants and visiting scientists, referred to in sub-section (5), shall be such as may be specified by the regulations.

Constitution of Committees.

- **12.** (*I*) The Executive Council may constitute such Committees as it may deem necessary for the efficient discharge of its duties and performance of its functions under this Act.
- (2) The Executive Council may also co-opt persons, other than Members of the Governing Board or the Executive Council, as members of any Committees constituted under sub-section (I).
- (3) The co-opted members shall have the right to attend the meetings of the Committees and take part in the proceedings of the Committees, but shall not have right to participate in decision making.

CHAPTER III

FINANCE, ACCOUNTS AND AUDIT

Funds of Foundation.

- **13.** (1) The Foundation shall receive monies from the following sources, namely:—
- (a) grants and loans of such sums of money as the Central Government may consider necessary, after due appropriation made by Parliament by law in this behalf;
- (b) any sums received for research and development, including through donations from any other source, including from public sector enterprises, the private sector, philanthropist organisations, foundations or international bodies;
 - (c) recoveries made of the amounts granted to the Foundation;
 - (d) any income from investment of the amounts received by the Foundation;
- (e) all amounts with the Fund for Science and Engineering Research under the Science and Engineering Research Board Act, 2008 as on the appointed date; and

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- (f) such other sources as may be prescribed.
- (2) The Governing Board shall constitute the following Funds, into which it shall allocate, in the manner as it determines fit, the amounts received from clauses (a), (b), (c), (d) and (f) of sub-section (I), namely:—
 - (a) the Anusandhan National Research Foundation Fund, which shall be used for the financing of activities under the Act, including expenses, salaries, allowances and other administrative exigencies for achieving the objectives of the Foundation;
 - (b) the Innovation Fund for supporting outstanding creativity in the areas supported by the Foundation;

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(c) the Science and Engineering Research Fund for continuation of the projects and programmes initiated under the Science and Engineering Research Board Act, 2008; and

(d) one or more Special Purpose Funds for any specific project or research.

- (3) The Governing Board shall maintain the Science and Engineering Research Fund referred to in clause (c) of sub-section (2) for such time as it may determine necessary, and allocate to such Fund, the following amounts, namely:—
 - (a) all amounts under clause (e) of sub-section (1); and
 - (b) any further amounts from any of the other sources of Funds received by the Foundation, as may be determined to be necessary for the implementation of such projects and programmes, based on a review and assessment by the Executive Council.
- (4) The Central Government shall frame such financial rules for the utilisation of the amounts in the Funds established under this Act.
- **14.** The Executive Council shall prepare a budget, maintain proper accounts in such form and manner at such time and at such intervals as may be prescribed for the next financial year, showing the estimated receipts and expenditure of the Foundation, as approved by the Governing Board, and forward the same to the Central Government.

Budget.

15. The Executive Council shall prepare, in such form and manner and at such time in every financial year, as may be prescribed, its annual report, giving a full account of the Foundation's activities during the previous financial year and submit a copy of the same to the Central Government.

Annual report.

16. (I) The Executive Council shall maintain proper accounts and other relevant records and prepare an annual statement of accounts in such form and manner as may be prescribed in consultation with the Comptroller and Auditor-General of India.

Accounts and

- (2) The Comptroller and Auditor-General of India or any other person appointed in connection with the auditing of the accounts of the Foundation under this Act shall have the same rights and privileges and the authority in connection with such audit as the Comptroller and Auditor-General of India has in connection with the auditing of the Government account and, in particular, shall have the right to demand the production of books, accounts connected vouchers and other documents and papers and to inspect any of the office of the Foundation under this Act.
- (3) The accounts of the Foundation shall be audited by the Comptroller and Auditor-General of India annually and any expenditure incurred in connection with such audit shall be payable by the Foundation to the Comptroller and Auditor-General of India.
- (4) The Executive Council shall furnish to the Central Government, before such date as may be prescribed, its audited copy of accounts together with auditor's report.
- 17. The Central Government shall cause the annual report and auditor's report to be laid, as soon as may be after they have received, before each House of Parliament.

Annual report and auditor's report to be laid before Parliament.

CHAPTER IV

MISCELLANEOUS

18. (*1*) Any person receiving financial assistance from the Foundation shall furnish certification and report to the Executive Council, in such form and manner and at such time as may be specified by the regulations.

Certification and report to be furnished.

(2) The Executive Council may authorise an officer to visit any academic institutions, research and development laboratories, industries and other organisations with which the

person referred to in sub-section (I) is associated, at any time to verify the accuracy of the certification or report made under this section.

Power of Governing Board to delegate. 19. The Governing Board may, by general or special order in writing, published in the Official Gazette, delegate to the Executive Council, the Chairperson of the Executive Council or the Chief Executive Officer, subject to such conditions and limitations, if any, as may be specified in the order, such of its powers and functions including, but not limited to administrative and financial matters, as it may deem necessary.

Power of Governing Board to issue directions.

- **20.** (1) Without prejudice to the foregoing provisions of this Act, the Executive Council shall, in discharge of its powers and performance of its functions under this Act, be bound by such directions as the Governing Board may give in writing to it from time to time.
- (2) The Executive Council shall furnish to the Governing Board such information with respect to its activities as the Governing Board may, from time to time, require.

Application of other laws not barred.

21. The provisions of this Act shall be in addition to, and not in derogation of, the provisions of any other law for the time being in force.

Protection of action taken in good faith.

22. No prosecution or other legal proceeding shall lie against the Central Government or the Governing Board or Executive Council or any Member of the Governing Board or Executive Council, or any Committee, officer or employee of the Foundation, or any other person authorised by the Central Government or the Foundation, for anything which is in good faith done or intended to be done under this Act or the rules or regulations made thereunder.

Power to make rules.

- **23.** (1) The Central Government may, by notification, and subject to the condition of previous publication, make rules not inconsistent with the provisions of this Act, to carry out the purposes of this Act.
- (2) In particular and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely:—
 - (a) the qualifications, experience, honorarium and allowances payable to and the other terms and conditions of service of the Members and experts of the Governing Board under sub-section (4) of section 5;
 - (b) the qualifications, experience, honorarium and allowances payable to and the other terms and conditions of service of the Members of the Executive Council under sub-section (4) of section 7;
 - (c) the qualifications, experience, salary and allowances payable to and the other terms and conditions of service of the Chief Executive Officer under sub-section (2) of section 11;
 - (d) the qualifications, experience, salary and allowances payable to and the other terms and conditions of service of the other officers and employees under sub-section (4) of section 11;
 - (e) the other sources from where the Foundation receive monies under clause (f) of sub-section (I) of section 13;
 - (f) the financial rules for the utilisation of the amounts in the funds under sub-section (4) of section 13;
 - (g) the form, manner, time and interval for preparation of budget for the next financial year under section 14;
 - (h) the form, manner and time for preparation of annual report by the Executive Council under section 15;
 - (i) the form and manner of preparation of annual statement of accounts by the Executive Council under sub-section (1) of section 16;

Power of Executive

Council to

make regulations.

- (*j*) the date of submission of audited copy of accounts together with the auditor's report under sub-section (*4*) of section 16;
- (k) the manner of dealing with the monies transferred by the Board to the Foundation under second proviso to clause (b) of sub-section (β) of section 27; and
- (*l*) any other matter which is to be or may be prescribed or in respect of which provision is to be made by rules.
- **24.** (1) The Executive Council may, by notification and with the prior approval of the Central Government, make regulations not inconsistent with the provisions of this Act and any rules made thereunder to carry out the purposes of this Act.
- (2) In particular, and without prejudice to the generality of the foregoing power, such regulations may provide for all or any of the following matters, namely:—
 - (a) the time, place and the rules of procedure in regard to transaction of business at the meetings and quorum of the Governing Board under sub-section (1) of section 6;
 - (b) the time, place and the rules of procedure in regard to transaction of business at the meetings and quorum of Executive Council under sub-section (1) of section 8;
 - (c) the requirements for registration, form and manner for making applications for financial assistance, reports and certification to be furnished for the financial assistance, extension of financial assistance and grounds for revocation of financial assistance under clause (b) of section 10;
 - (*d*) the eligibility criteria and honorarium payable to the consultants and visiting scientists under sub-section (*6*) of section 11;
 - (e) the form, manner and time for furnishing certification and report to the Foundation under sub-section (1) of section 18; and
 - (f) any other matter which is required to be or may be specified by regulations or in respect of which provision is to be made by regulations.
- 25. Every rule and every regulation made under this Act, shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or regulation or both Houses agree that the rule or regulation should not be made, the rule or regulation shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule or regulation.

Rules and regulations to be laid before Parliament.

26. (1) If any difficulty arises in giving effect to the provisions of this Act, the Central Government may, on the recommendations of the Foundation, by an order published in the Official Gazette, make such provisions not inconsistent with the provisions of this Act or the rules or regulations made thereunder, as may appear to it to be necessary or expedient for removing such difficulty:

Power to remove difficulties.

Provided that no such order shall be made under this section after the expiry of two years from the date of commencement of this Act.

- (2) Every order made under this section shall be laid, as soon as may be after it is made, before each House of Parliament.
- **27.** (*I*) The Science and Engineering Research Board Act, 2008 is hereby repealed and the Science and Engineering Research Board constituted under section 3 of the said Act (hereinafter referred to as the repealed Act) shall stand dissolved.

Repeal and savings.

9 of 2009.

(2) The repeal of the Science and Engineering Research Board Act, 2008 shall, however, not affect:—

9 of 2009.

- (a) any action taken pursuant to sub-section (3) of section 13;
- (b) previous operation or anything duly done under the repealed Act;
- (c) any right, privilege, obligation or liability acquired or accrued or incurred under the repealed Act; and
 - (d) any proceeding pending or ongoing under the repealed Act.
- (3) On the dissolution of the Science and Engineering Research Board—
- (a) all assets, liabilities and other facilities forming part of or used in connection with the Science and Engineering Research Board, shall be deemed to be the assets of the Foundation; and
- (b) any officer or employee who has been, immediately before the dissolution of the Science and Engineering Research Board, employed on regular basis by the Science and Engineering Research Board, shall become, on and from such dissolution, the officer and employee, respectively, of the Foundation in such manner as may be notified by the Central Government, with the same rights and privileges as to pension, gratuity and other like matters as would have been admissible to him if the rights in relation to the Science and Engineering Research Board had not been transferred to, and vested in, the Foundation, and shall continue to do so unless and until his employment in the Foundation, is duly terminated or until his remuneration, terms and conditions of employment are duly altered by the Foundation:

Provided that notwithstanding anything contained in the Industrial Disputes Act, 1947 or in any other law for the time being in force, the transfer of the services of any officer or other employee, employed in the Science and Engineering Research Board, to the Foundation shall not entitle such officer or other employee, any compensation under this Act or any other law for the time being in force and no such claim shall be entertained by any court, tribunal or other authority:

Provided further that where the Science and Engineering Research Board has established a provident fund, superannuation, welfare or other fund for the benefit of officers and other employees employed in the Science and Engineering Research Board, the monies relatable to the officers and other employees whose services have been transferred by or under this Act to the Foundation shall, out of the monies standing, on the dissolution of the Science and Engineering Research Board, to the credit of such provident fund, superannuation, welfare or other fund, stand transferred to, and vest in, the Foundation, and such monies which stand so transferred shall be dealt with by the said Foundation, in such manner as may be prescribed.

(4) The mention of the particular matters referred to in sub-section (3) shall not be held to prejudice or affect the general application of section 6 of the General Clauses Act, 1897 with regard to the effect of repeal.

10 of 1897.

14 of 1947.

DR. REETA VASISHTA, Secretary to the Govt. of India.

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ಕರ್ನಾಟಕ ರಾಜ್ಯಪತ್ರ**, ಸೋಮವಾರ, ೨೧, ಆಗಸ್ಟ್, ೨೦೨೩**

ಭಾಗ ೪

ಕರ್ನಾಟಕ ರಾಜ್ಯಪಾಲರ ಆದೇಶಾನುಸಾರ ಮತ್ತು ಅವರ ಹೆಸರಿನಲ್ಲಿ

(ಡಿ.ಬಿ. ಜನಾರ್ಧನ) ಸಹಾಯಕ ಪ್ರಾರೂಪಕಾರ ಮತ್ತು ಪದನಿಮಿತ್ತ ಸರ್ಕಾರದ ಉಪ ಕಾರ್ಯದರ್ಶಿ ಸಂಸದೀಯ ವ್ಯವಹಾರಗಳು ಮತ್ತು ಶಾಸನ ರಚನೆ ಇಲಾಖೆ

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